

EXHIBIT “4”

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September 2, 2022

IN THE UNITED STATES DISTRICT COURT
NEW YORK EASTERN DISTRICT
CASE NO. 1:21-CV-03703

ISOJON KHUSENOV,)	ZOOM
Plaintiffs,)	DEPOSITION OF
versus)	GEORGE PFREUNDSCHUH
PROKRAFT, INC., et al,)	
Defendants.)	

Zoom Deposition of GEORGE PFREUNDSCHUH,
a Witness herein, called by the Plaintiff for
Cross-Examination pursuant to the Federal Rules of Civil
Procedure, taken before me, the undersigned, Deanna
Gleckler, a Registered Professional Reporter, Certified
Realtime Reporter and Notary Public, at Edison, New
Jersey, on Friday, the 2nd day of September 2022, at
10:15 a.m.

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APPEARANCES:

On behalf of the Plaintiff:

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On behalf of the Defendant Karzinka US.,
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(1) GEORGE PFREUNDSCHUH
(2) S T I P U L A T I O N S
(3)
(4) IT IS STIPULATED AND AGREED by and between the
(5) attorneys for the respective parties herein, and in
(6) compliance with Rule 221 of the Uniform Rules for the
(7) Trial Courts:
(8) THAT the parties recognize the provision of
(9) Rule 3115 subdivisions (b), (c) and/or (d). All
(10) objections made at a deposition shall be noted by the
(11) officer before whom the deposition is taken, and the
(12) answer shall be given and the deposition shall proceed
(13) subject to the objections and to the right of a person to
(14) apply for appropriate relief pursuant to Article 31 of
(15) the C.P.L.R;
(16) THAT every objection raised during a deposition
(17) shall be stated succinctly and framed so as not to
(18) suggest an answer to the deponent and, at the request of
(19) the questioning attorney, shall include a clear statement
(20) as to any defect in form or other basis of error or
(21) irregularity. Except to the extent permitted by CPLR
(22) Rule 3115 or by the rule, during the course of the
(23) examination persons in attendance shall not make
(24) statements or comments that interfere with the
(25) questioning.

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(1) GEORGE PFREUNDSCHUH
(2) THAT a deponent shall answer all questions at a
(3) deposition, except (i) to preserve a privilege of right
(4) of confidentiality, (ii) to enforce a limitation set
(5) forth in an order of a court, or (iii) when the question
(6) is plainly improper and would, if answered, cause
(7) significant prejudice to any person. An attorney shall
(8) not direct a deponent not to answer except as provided in
(9) CPLR Rule 3115 or this subdivision. Any refusal to
(10) answer or direction not to answer shall be accompanied by
(11) a succinct and clear statement on the basis therefore.
(12) If the deponent does not answer a question, the examining
(13) party shall have the right to complete the remainder of
(14) the deposition.
(15) THAT an attorney shall not interrupt the
(16) deposition for the purpose of communicating with the
(17) deponent unless all parties consent or the determining
(18) whether the question should not be answered on the
(19) grounds set forth in Section 221.2 of these rules, and,
(20) in such event, the reason for the communication shall be
(21) stated for the record succinctly and clearly.
(22) THAT the failure to object to any question or
(23) to move to strike any testimony at this examination shall
(24) not be a bar or waiver to make such objection or motion
(25) at the time of the trial of this action, and is hereby

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(1) GEORGE PFREUNDSCHUH
(2) reserved, and THAT this examination may be signed and
(3) sworn to by the witness examined herein before any Notary
(4) Public, but the failure to do so or to return the
(5) original examination to the attorney on whose behalf the
(6) examination is taken, shall not be deemed a waiver of the
(7) rights provided by Rule 3116 and 3117 of the C.P.L.R.,
(8) and shall be controlled thereby; and THAT the
(9) certification and filing of the original of the
(10) examination are hereby waived; and THAT the questioning
(11) attorney shall provide counsel for the witness examined
(12) herein with a copy of this examination at no charge.

(13)
(14) VIDEO STIPS

(15)
(16) IT IS HEREBY STIPULATED AND AGREED by and
(17) between counsel for all parties present that Pursuant to
(18) CPLR section 3113(d) this deposition is being conducted
(19) by Videoconference, that the Court Reporter, all counsel,
(20) and the witness are all in separate remote locations and
(21) participating via Videoconference (LegalView/Zoom/WebEx)
(22) meeting under the control of Lexitas Court Reporting
(23) Service, that the officer administering the oath to the
(24) witness need witness shall be sworn in remotely by the
(25) Court Reporter after confirming the witness's identity,

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(1) GEORGE PFREUNDSCHUH
(2) that this Videoconference will not be recorded in any
(3) manner, and that any recording without the express
(4) written consent of all parties shall be considered
(5) unauthorized, in violation of law, and shall not be used
(6) for any purpose in this litigation or otherwise.
(7) IT IS FURTHER STIPULATED that exhibits may be marked
(8) by the attorney presenting the exhibit to the witness,
(9) and that a copy of any exhibit presented to a witness
(10) shall be emailed to or otherwise in possession of all
(11) counsel prior to any questioning of a witness regarding
(12) the exhibit in question. All parties shall bear their
(13) own costs in the conduct of this deposition by
(14) Videoconference, notwithstanding the obligation by the
(15) CPLR to supply a copy of the transcript to the deposed
(16) party by the taking party in Civil Litigation matters.
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(1) GEORGE PFREUNDSCHUH

(2) - - - - -

(3)

(4) MS. MOSQUERA: Good morning. My name is
(5) Chantal Liriano Mosquera. I'm a notary public
(6) qualified in the state of New York. My
(7) registration number is 01LI6319840. Commission
(8) expires February 23, 2023. I'm here to administer
(9) the oath to the witness. Please raise your right
(10) hand.

(11)

(12) WHEREUPON,

(13) GEORGE PFREUNDSCHUH,

(14) who, after being first duly sworn,

(15) testified as follows:

(16) - - - - -

(17)

(18) MS. MOSQUERA: Please spell your name for
(19) the record.

(20) THE WITNESS: George Pfreundschuh,

(21) P-F-R-E-U-N-D-S-C-H-U-H.

(22) MS. MOSQUERA: Please state your address
(23) for the record.

(24) THE WITNESS: I'm at Affiliated Engineering
(25) Laboratories, 777 New Durham, which is spelled

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GEORGE PFREUNDSCHUH
D-U-R-H-A-M, Road, in Edison, New Jersey.
MS. MOSQUERA: Do you have the zip code
there?
THE WITNESS: 08817.
MS. MOSQUERA: All right. Thank you very
much everyone. Have a good day.
THE WITNESS: You, too.
MR. EVANS: Thank you.

CROSS-EXAMINATION

BY MR. ZOHAR:

Q. Good morning, Mr. Pfreundschuh. First of all, a
few ground rules. I take it you've been at
depositions before today?
A. I have.
Q. And also federal depositions?
A. I have.
Q. All the same and standard rules apply, which I'm
going to recite a few. So first of all, I'm not
here to confuse you in any manner. If at any time
you don't understand my question, I want you to
state that, and if it's a word or the manner in
which I'm using words, please tell me so if you

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(1) GEORGE PFREUNDSCHUH
(2) have any confusion as to what I'm asking before you
(3) give me an answer, and I'm going to restate and
(4) rephrase that question until you are able to
(5) understand it. As you sit here today, are you
(6) under any type of medication or anything that would
(7) prevent you from testifying truthfully?

(8) **A. No.**

(9) **Q.** We have a court reporter here today. She can only
(10) take one person's testimony at a time. And with
(11) that said, despite the fact that you may know
(12) exactly what my question is going to be before I
(13) even complete it, I'm going to ask you to please
(14) give me the courtesy of completing my question.
(15) I'm going to give you that same courtesy when you
(16) give me an answer. If at any time I in some
(17) manner, you feel I've cut into your answer, please
(18) tell me so, and I'm going to do the same thing, if
(19) you start, you know, answering a question before I
(20) am finished talking or questioning.

(21) If at any time you need to take a break,
(22) please tell me so. As long as there's no question
(23) pending, feel free to take that break. Now,
(24) Affiliated Engineering Laboratories, Inc. is a
(25) business. So let me ask you a few things. First

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(1) GEORGE PFREUNDSCHUH
(2) of all, what is your position with what we'll call
(3) Affiliated from this point forward?
(4) A. My title at Affiliated is engineering consultant.
(5) Q. Do you have any ownership interest in Affiliated?
(6) A. I do.
(7) Q. And what is that ownership interest?
(8) A. I don't know what you mean by that.
(9) Q. Are you the sole owner of the business, or is there
(10) some percentage of the business that you have
(11) ownership of?
(12) A. Some percentage.
(13) Q. And can you tell us what the percentage of
(14) ownership is.
(15) A. I'm not entirely sure. It's not something I think
(16) about all the time. I think it's in the ball park
(17) of 10%.
(18) Q. The revenue or income that you derive from your
(19) engineering consulting from Affiliated, does that
(20) take into account a percentage of work and income
(21) business derived by other employees? And just to
(22) make sure we're clear, meaning when you work and
(23) you do some consulting work and you submit
(24) paperwork and there is payment for that in some
(25) manner, I'm asking is there also income that you

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(1) GEORGE PFREUNDSCHUH
(2) derive from your ownership of Affiliated?
(3) A. Yes.
(4) Q. Is that something that you take into account every
(5) year when you submit and file your taxes?
(6) A. 100%, yes.
(7) Q. I'm not going to delve deep into this, but I just
(8) want to find out, you did file your taxes this
(9) year?
(10) A. Yes. You mean for last year, this year for last
(11) year's income taxes.
(12) Q. Correct. Thanks for correcting me. That's exactly
(13) what I meant. At that time, in your computations
(14) of what your income was, did the percentage of your
(15) ownership of affiliated have some submission within
(16) your taxes?
(17) A. Yeah, the accountants take care of that.
(18) Q. Can you tell us what your income is from
(19) Affiliated.
(20) MR. REDD: Objection. Counsel, his income
(21) is personal to him. I don't see the relevance in
(22) terms of this lawsuit.
(23) MR. ZOHAR: I understand.
(24) Q. Now, what percentage of your income is derived from
(25) litigation? And when I say litigation, I'm not

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(1) GEORGE PFREUNDSCHUH
(2) just talking about today's deposition or an
(3) appearance in a court, but we're talking about site
(4) inspections, writing reports, reviewing documents
(5) and things of that nature. So what percentage of
(6) your income is derived from litigation?
(7) A. The majority. I don't have a precise number to
(8) give you.
(9) Q. And when you say majority, majority could be 51%.
(10) Can you give us a better estimate of what that
(11) majority is.
(12) A. It's more than 51%. I don't know the exact number.
(13) I do claims work that's not in litigation. I
(14) provided some answers to questions. I don't know
(15) if you have them.
(16) Q. I understand. And we do have those responses. So
(17) when you're saying also that part of your income is
(18) derived for claims, do those claims deal with
(19) property damage?
(20) A. Yes.
(21) Q. Are they solely for property damage, those claims
(22) that are not in litigation?
(23) A. No. I think there are some exceptions, but the
(24) vast majority of the claims I work on are property
(25) damage.

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(2) Q. And is it also anticipated that some of those, if
(3) not most of those claims, will also go into
(4) litigation if not resolved within that initial
(5) claim period?

(6) A. **Certainly some. I can't tell you the exact number.**

(7) Q. And to include the income that is derived from your
(8) work on claims that are not in litigation, and
(9) matters in litigation, how much of your income is
(10) derived from those two sources?

(11) A. **It's basically 100% of my income comes from working**
(12) **on claims and litigation.**

(13) Q. Do you have any work with regards to research and
(14) development of any new products to bring to the
(15) market?

(16) MR. REDD: At this point in time, Gil?

(17) MR. ZOHAR: At this point in time.

(18) A. **No.**

(19) Q. Is any of your experience and knowledge in
(20) engineering being used in any manner, and we'll say
(21) within the last five years, for actual construction
(22) of either devices or properties, mechanisms within
(23) those properties, anything of that nature; how much
(24) of your work in the past five years is entailed
(25) with that type of work?

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(1)
(2) A. As I said in the questions I answered, I'm actively
(3) involved in a number of standards committees.
(4) There's no compensation associated with that. Back
(5) to your question, I have not been getting billable
(6) income from doing work in the last five years
(7) outside of claims or litigation related work.

(8) Q. Thank you.

(9) A. And when we're talking about income, we're talking
(10) about the money I get as a function of my billable
(11) hours. The income that comes as being a partner is
(12) separate and aside from that, and I have other
(13) income sources as well through investments and what
(14) have you.

(15) Q. We're not going to touch or discuss those, as they
(16) don't have any relevance at this point. So does
(17) Affiliated Engineering, and we're talking outside
(18) of your actual function as a engineering
(19) consultant, does Affiliated engage in development
(20) or working as a subcontractor in some manner on
(21) projects where they're building buildings in the
(22) past five years?

(23) A. Nothing in the past five years. Affiliated
(24) Engineering is part of Affiliated Group.
(25) Affiliated Group includes other businesses. We

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have a materials business, we have a computer and telephone business. At one time we had a green energy business, which kind of falls under what you're talking about, and we did some construction work, but I think the green energy and construction work is more than five years ago.

Q. So would your answer be no?

A. In the last five years, no.

Q. I'd like to discuss some items from your CV. While you were a student during your bachelors at Rutgers did you have any type of, we're talking about student achievements awards, recognitions, things of that nature during your studies at Rutgers?

A. Well, there was Tau Beta Pi, I was a member of that, or inducted into Tau Beta Pi. It's an engineering honors society. I don't have that on my CV. It's ancient history. Does that answer your question? I can't think of anything else.

Q. Now, with regards to your masters at U Penn, and I see that the two courses were mechanical engineering and applied mechanics, were there any specific focuses within those studies that you can detail for us? The course material, that's what I'm talking about, because you're having some

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(1) GEORGE PFREUNDSCUH
(2) slight delay for my answer. I'm talking the course
(3) materials, were there any specific focuses on the
(4) courses that you had taken in those two areas of
(5) study?
(6) A. I think there were some electives I could take, and
(7) I chose to focus on robotics. So my masters thesis
(8) is in robotics. I think my CV gives a long
(9) technical name for my masters thesis.
(10) Q. Can you tell us a little bit about the professional
(11) licensing that you possess currently.
(12) A. I'm a licensed professional engineer in the states
(13) of New York and New Jersey. I got my New Jersey
(14) license first. To be able to get a license, you
(15) have to have certain educational background.
(16) Minimum is a bachelors degree, and then ABET
(17) accredited curriculum, and then there's a certain
(18) amount of training or work experience that you have
(19) to have, and you need references. Your work
(20) experience has to include certain elements. In New
(21) Jersey, at the time it was focused on design, doing
(22) design work. So I think it was '94 or '95 I got my
(23) New Jersey license, and then it was in the early
(24) 2000s I got my New York license. You have to take
(25) a test, too. I should say there's two tests that

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(1) **GEORGE PFREUNDSCHUH**
(2) **you have to take as well.**
(3) **Q.** Thank you. Are they both active, the New York and
(4) New Jersey license as we speak today?
(5) **A.** Yes, they are.
(6) **Q.** Okay. Now, you've listed with regards to some of
(7) your, under the title professional in your CV, also
(8) some memberships in some OSHA training. So I just
(9) want to go down that list. You had stated that you
(10) have a OSHA training with regards to safety &
(11) health general industry. Do you recall that?
(12) **A.** Yes.
(13) **Q.** And can you tell us what is the extent of that
(14) training; are we talking about something that is a
(15) couple weeks, or are we talking about something
(16) that is a few hours of training?
(17) **A.** We're talking cumulatively probably a month of OSHA
(18) training. Near where I work I took most of the
(19) classes, and it's through, I believe I have it
(20) listed there, the Atlantic OSHA Training Center.
(21) It's connected with Rutgers. They have a school of
(22) public health, or at least that's what they called
(23) it at the time. So, for example, for general
(24) industry, I think it's 510. So it's a 30-hour
(25) general industry course. I had to take that, and

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then there's a bunch of other core classes you had to take for that certificate program, and then there were electives.

Took one-day class on warehousing and forklift safety. Respiratory protection I think was a three-day class. Look at the list. Quite a few different classes. Some of the four classes covered for both the construction certificate and general industry. Guide to industrial hygiene I see here, machinery and machine safe guarding. Now, I actually took that class twice. One as a one-day class. That was offered local. And then I took a three-day class on machinery and machine guarding up in Connecticut.

Q. I want to still stick with just the OSHA for this safety and health certificate in general industry, just that one. And you said 30 hours.

A. Oh, no. This certificate -- please ask that question again, because I think I might have misrepresented or guessed wrong.

Q. That's okay. And that's fine.

A. At a very high level you've got the certificate program. The certificate program, to get the certificate, and I had the certificates in both

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(1) general industry and construction, they spell out a
(2) curriculum. It's kind of like going to college
(3) again or something, but on a much smaller level,
(4) okay. And they say these classes you have are the
(5) core classes, you have to take these. And then
(6) they give you a bunch of electives to choose from
(7) and you have to take at least so many electives,
(8) and then when you're done taking all those classes,
(9) you earn your certificate. So each of those
(10) certificates represents a good ten, fifteen days of
(11) actual classroom training, and in total the two of
(12) them, like I said, it's over a month.

(13)
(14) Q. Is that done initially when you're getting your
(15) license or at some later point?

(16) A. Some later point.

(17) Q. When exactly did you take these classes, if you can
(18) recall approximately what year?

(19) A. I'm guessing about ten years ago. I mean, give or
(20) take five years.

(21) Q. Would that be the same with regards to your
(22) certificate in construction in OSHA?

(23) A. Yes.

(24) Q. And you had stated earlier at some point that it
(25) was approximately 30 hours; is that correct, or do

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(1) GEORGE PFREUNDSCHUH

(2) you have a different answer?

(3) A. Well, each of those certificates includes as a core
(4) class the 30-hour class. So you hear a lot of
(5) people talk about, Oh, I got my OSHA 10, I got my
(6) OSHA 30, okay. So the OSHA 30, so called 30 for
(7) general industry, is actually a four-day class and
(8) it's OSHA 511. It's on the second page of my CV.
(9) And the OSHA 30, that's part of the construction
(10) certificate, is also a four-day class in OSHA 510.
(11) Again, on the second page of my CV.

(12) Q. I don't think I -- maybe I misheard or you didn't
(13) state, but do you recall approximately what year
(14) this was conducted, both the general industry and
(15) construction?

(16) A. Again, approximately ten years ago. It could be
(17) give or take a couple years, five years. It's a
(18) while ago.

(19) Q. All right. Since 2012 until the present, have you
(20) taken an active role in ongoing construction
(21) projects?

(22) A. What do you mean by that?

(23) Q. These OSHA classes are for, we're talking about
(24) construction sites, safety on construction sites.

(25) A. Yes. I'm sorry to interrupt.

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(1) GEORGE PFREUNDSCHUH

(2) MR. REDD: Objection to form. Go ahead.

(3) Q. So my question is, just from 2012 when you took
(4) these courses to the present, on how many occasions
(5) were you actively a part of a construction project
(6) in your professional capacity?

(7) A. I can recall some inspections where I've been
(8) asked, called out to active construction sites.
(9) Does that answer your question? As part of a
(10) forensic assignment, to evaluate, for example, a
(11) lift, an aerial lift of some type, where an
(12) accident happened.

(13) Q. Right. I'm not talking about inspections or things
(14) tied to litigation, but I'm talking about an active
(15) construction site where you in your professional
(16) capacity are taking part either as a general
(17) contractor under certain circumstances or a
(18) subcontractor.

(19) A. No, I have not been involved in situations like
(20) that.

(21) Q. Now, you had mentioned also with regards to ANSI 01
(22) in woodworking machinery. Can you tell us what
(23) kind of training or time spent by you with regards
(24) to this membership.

(25) A. I'll just think out loud, if you don't mind, to

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answer your question. So just give me a little rope here. We typically had monthly virtual meetings that are two hours long. That would be the main committee. Sometimes there are subcommittee meetings. I've recently had a bunch of those. Another monthly, sometimes more frequent. Also about two hours long. There's preparation associated with those meetings. Sometimes I work on developing materials to contribute to, you know, drafting modifications or additions to the standards that we develop and maintain. We have yearly in-person meetings that are several days long. So I'm trying to do the math in my head. I mean, it's maybe like between 50, 100 hours a year.

Q. Can you tell us how many members are there of this standard committee.

A. About two dozen. I don't have a roster in front of me. That's off the top of my head.

Q. Is there any compensation in any manner for your membership?

A. Well, when I go to the in-person, I got to pay a hotel room, company pays, Affiliated pays that is, you know. I get free meals. That's about it.

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(1)
(2) Q. Okay. Now, with regards to ASTM International
(3) Committee on Occupational Health and Safety, can
(4) you tell us a little bit about what that means to a
(5) lay person.

(6) A. Well, the E34 -- ASTM's got a lot of different
(7) committees. E34 is Occupational Health and Safety.
(8) I've only been a member of that committee for the
(9) last, I don't know, two years or so. They've got
(10) some definite -- they've got a bunch of different
(11) standards they maintain on occupational safety and
(12) health. Some of them are definitions, they have a
(13) few practices, standard practice. I just voted on
(14) the one that I had worked on on a working group for
(15) table saws, a safe use of table saws. That's what
(16) prompted me to join. I think they have one for
(17) glass cutting and use of water jets. I could be
(18) wrong, but that's off the top of my head. And they
(19) have, they're big into safety with respect to
(20) machine coolants used for machining of, you know,
(21) metals materials, that sort of thing. So it's a
(22) little bit spare-it what they cover, but that's,
(23) off the top of my head, the nature of that
(24) committee.

(25) Q. Is there any compensation that you receive with

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(1) GEORGE PFREUNDSCHUH
(2) regards to the E34?
(3) A. No.
(4) Q. Looking down at the next membership that you have
(5) stated here, which deals with standard development
(6) table saw task group, is that associated with any
(7) of the prior memberships in any manner?
(8) A. It's connected to the E34, only in the sense that
(9) as a task, as a member of that task group, the
(10) 34.10 that developed the ASTM standard for the safe
(11) use of table saws, to be able to vote on the final
(12) draft of that standard, you have to be a member of
(13) the E34 committee. So the task group member is
(14) just we're working on the side, kind of like a
(15) subcommittee. So that was a seven-year effort.
(16) Began in 2015.
(17) Q. Going down now to -- and also, I know that I asked
(18) it with regards to the E34 Occupational Health and
(19) Safety. I don't want to assume something, and you
(20) had already said there was no compensation other
(21) than what you call free meals. Is that the same
(22) with regards to this E34-10 or dot 10?
(23) A. We never met in person. It was all virtual. So
(24) there was no compensation, no free meals. Nothing
(25) like that.

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- (1)
- (2) Q. Okay. We're going to go down that list now.
- (3) American Society of Mechanical Engineers, how long
- (4) have you been a member of that group?
- (5) A. Since my graduate school days. So we're '89, 1990.
- (6) Q. Is that the same with regard to American Society of
- (7) Safety Professionals?
- (8) A. No.
- (9) Q. How long were you a member there?
- (10) A. Since I joined Affiliated. So since 2002
- (11) approximately.
- (12) Q. And American Society of Plumbing Engineers?
- (13) A. About the same answer.
- (14) Q. 2002?
- (15) A. Approximately.
- (16) Q. And International Code Council?
- (17) A. That might have been a few years later. I don't
- (18) know. 2005-ish. I'm not sure.
- (19) Q. And I understand that to be an estimate. You also
- (20) have here membership with regards to the Society of
- (21) Heating, Refrigeration and Air-Conditioning
- (22) Engineers. How long have you been a member of
- (23) that?
- (24) A. Between 2002, 2005.
- (25) Q. And the National Fire Protection Association, how

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(2) long have you been a member there?
(3) A. That's only I think the last two or three years.
(4) Q. And the Snow and Ice Management Association, how
(5) long have you been a member there?
(6) A. I'm a member through our corporate membership. I
(7) think that's a couple years. I'm not sure.
(8) Q. All right. Now, any of the memberships that we had
(9) spoken about after the E34, are there any type of
(10) compensation for your participation as a member in
(11) any manner for any of those memberships?
(12) A. No.
(13) Q. Are those memberships also professionally a manner
(14) of having a network in the profession that you are
(15) specializing in?
(16) A. For me it's not so much the networking as it is the
(17) benefit of, it's a mechanism for making me
(18) professionally aware of trends, standards,
(19) approaches to things, technology. All those by and
(20) large, you know, the professional associations,
(21) ASME, ASSP ASPE, they all have magazines, monthly
(22) publications. So I, you know, I get a lot of
(23) benefit out of reading those articles, scanning
(24) through them. And the ones that are of interest, I
(25) read them.

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(2) Q. In some of those what you say print materials we'll

(3) call them from these different societies and

(4) associations, do those sometimes have ads by some

(5) of the professionals within the group?

(6) A. What do you mean by within the group?

(7) Q. Ads for their services.

(8) A. Whose group?

(9) Q. Any of the groups that we've just spoken about,

(10) either the societies or associations that we've

(11) just gone down after discussing some of your

(12) licensing in OSHA studies, in any of those, in

(13) those pamphlets, printed materials that they supply

(14) with information, do they also have a directory of

(15) some of the professionals that are basically

(16) advertising for their business?

(17) A. I think the American Society of Professional

(18) Engineers, they have a publication, monthly

(19) publication, I think they call it their journal,

(20) Professional Safety, and I do believe that there

(21) are companies that advertise their services within

(22) that monthly journal. That's what you're looking

(23) for?

(24) Q. Absolutely. Does Affiliated advertise in any of

(25) the associations, societies or councils that we had

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(2) just discussed in any manner for their services?

(3) A. Not that I know of.

(4) Q. Would you be the person that would know if they do
(5) or is there someone that has that information and
(6) would be able to say yes or no?

(7) MR. REDD: Objection.

(8) A. I'm pretty sure the answer's no. I mean, the only
(9) one that gives me pause is SIMA, snow and ice, but
(10) I doubt, based on my knowledge as an owner, I doubt
(11) that's the case there.

(12) Q. When you receive business - and when I say you, I'm
(13) talking about also Affiliated - when Affiliated
(14) receives any type of business, is there a notation
(15) within that business of how they found Affiliated
(16) or were referred to Affiliated?

(17) A. What do you mean by notation? I mean, we keep
(18) records, but I'm not sure I quite follow what
(19) you're trying to get at.

(20) Q. Does Affiliated market itself for business?

(21) A. I know in the past we have. I don't think we
(22) really -- there's like some New York defense
(23) lawyers I think that have like a yearly golf
(24) outing, and I think we've participated in that in
(25) the past and maybe we get like a sign that they put

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(2) on the fourth tee or wherever. I haven't gone to

(3) those things, but I know we've done that, but I

(4) don't think -- years ago I think we put an ad in,

(5) what is it, DRI, I think, or something. It's so

(6) long ago, and as far as I know, we haven't done

(7) that in a long time.

(8) Q. And what I meant is, about notation is, and I'll

(9) just give an example of either an attorney or a

(10) doctor. When we get a client, you know, most times

(11) we like to know how it is that they became aware of

(12) our services. So they may say that they know a

(13) former client, or they live in the area, they saw

(14) signs or an ad, or a newspaper, or a doc they may

(15) say referred from another doctor with regards to a

(16) patient. So I'm saying, does Affiliated maintain

(17) those types of records of where they get their

(18) business from?

(19) A. We know who we're getting our business from,

(20) indeed.

(21) Q. And I'm talking about how that business came to

(22) Affiliated. Not that you know that they have come

(23) to Affiliated. That is understood. We're talking

(24) about did they see some type of brochure, did they

(25) see your work somewhere, how they got there, the

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(2) referral source. That's what I'm talking about.
(3) A. A couple things. I really can't answer your
(4) question. Secondly, I think we're moving well
(5) beyond the scope of questions that are relevant to,
(6) you know, the basis for my opinions in this case,
(7) and I'm getting to the point where I'm going to say
(8) I'm not going to answer anything more unless a
(9) judge directs me to, okay?
(10) MR. REDD: George. I understand the
(11) witness' point. We are in federal court. There's
(12) a broad scope here of questioning. So I understand
(13) the witness' frustration. We should continue, but
(14) we really need to move along into the substance of
(15) the opinion. So, Gil, please shorten this if you
(16) can. I'm not going to instruct him not to answer.
(17) It's not the appropriate area for me to instruct.
(18) I think you are going very wide here in terms of
(19) scope of relevance. So obviously I'm not going to
(20) instruct him not to answer at this juncture, but,
(21) again, I think we need to move it along.
(22) Q. Okay. So can I just get an answer, if there's any
(23) type of information that Affiliated maintains with
(24) regards to how a client found out about the
(25) services of Affiliated; is there any type of

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(2) notation within a client file that would state that
(3) information?

(4) A. There may be. I don't know if we consistently do
(5) that. I mean, it wouldn't surprise me if here or
(6) there we keep track of that. I'm not part of that,
(7) okay, I'm not the general manager. I'm not part of
(8) our new project group. All I know is that --

(9) MR. REDD: Don't guess. Don't speculate.
(10) Okay. If you have an answer, tell him. If you
(11) don't know, you don't know, okay?

(12) THE WITNESS: Thank you.

(13) Q. So with regards to these memberships, and again,
(14) I'm looking at the memberships with the committee,
(15) associations, societies, would there be any
(16) information in Affiliated's records that would be
(17) able to say what amount or percentage of business
(18) is received by Affiliated through its membership in
(19) associations that there are?

(20) A. For most of those groups listed on my resume, it's
(21) essentially zero. I mean, the one exception might
(22) be SIMA. We get business from repeat customers,
(23) okay, that's how we get our business. It's not
(24) like new referrals all the time that's bringing the
(25) business in.

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(1)
(2) Q. Thank you. Now, with regards to you had stated on
(3) some of the committees, especially woodworking, you
(4) had mentioned that there are recommendations that
(5) are made during these meetings. Is that something
(6) that is at least publicized within the group of
(7) what those changes are?

(8) A. Absolutely.

(9) Q. Is that something that you have within your
(10) business --

(11) A. I'll just go back. When you say publicized, I
(12) mean, there are lots of communications back and
(13) forth with the appropriate persons copied or, you
(14) know, and there's obviously a whole methodology to
(15) how you develop stuff and work towards reaching
(16) that consensus that you need before you can publish
(17) revisions or additions, a new version of the
(18) standard, or a new standard altogether.

(19) Q. Since you've been a member of the ANSI 01 standard
(20) committee with regard to woodworking, have there
(21) been any changes that have been adopted while
(22) you've been a member?

(23) A. Yes.

(24) Q. And is that something that you maintain a regular
(25) course of your business?

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(2) A. That I maintain? Yeah, I have records.

(3) MR. ZOHAR: Joe, just for the record, I'm
(4) going to put some demands, which I will reduce all
(5) to writing, okay? So your objection to reduce to
(6) writing is understood from this point out to any of
(7) them. I'm just doing this to make it easier.

(8) MR. REDD: Thank you. Fair enough.

(9) MR. ZOHAR: All right. I'm just going to
(10) ask for any of those changes that have been made
(11) while he's been a member on the ANSI 01 Standard
(12) Committee with regard to woodworking machinery.
(13) I'll make that demand in writing.

(14) A. And I'd like to make it clear, because right now, I
(15) don't understand what you mean by changes.

(16) MR. REDD: When he makes his formal demand,
(17) we will talk to our witness to see if it's
(18) something we can comply with. If it's overly broad
(19) or doesn't make sense, obviously we'll answer to
(20) the best of our ability if we think it's
(21) appropriate. Put it in writing, we'll respond in
(22) writing and we'll deal with it that way.

(23) MR. ZOHAR: Absolutely.

(24) Q. Now, going into your education. First of all,
(25) could you tell us a little bit about what the major

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(2) focus of your career was initially.

(3) A. I was just a green engineer getting experience, but
(4) the work that I, generally speaking, at a very high
(5) level, the type of work I did for the first eleven
(6) or so years of my career, eleven, twelve, from 1990
(7) to 2002 when I joined Affiliated, so during that
(8) period, I worked on telecommunications and defense
(9) type of projects. Some of it was research and
(10) development.

(11)

(12) (Mr. Jacobson entered the deposition room)

(13)

(14) Q. There was a focus I noted within your CV with a lot
(15) of the communications, optical fibers, things of
(16) that nature. So can you tell us a little bit about
(17) what part you took in those activities.

(18) A. So I worked on developing optical fiber devices. I
(19) can't get into the specifics. It's classified.
(20) The nonclassified stuff that I worked on later in
(21) my career with respect to fiberoptics was high
(22) power optical amplifiers that would be used for
(23) free space laser communication. When I was with
(24) JDS Uniphase, that was for telecommunications,
(25) optical fiber amplifiers that could amplify many

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(2) different signals, different colors of light, if
(3) you will, at the same time. That was the optical
(4) fiber side of things. I think that answers your
(5) question.
(6) Q. Where did you have some of these continuing
(7) educations? And I see it says AT&T and Lucent
(8) Technologies on that first page of your CV. Is it
(9) at their specific facilities, being conducted by
(10) them, or something else?
(11) A. Well, the very first one on the first page, Optical
(12) Fiber Communications, again, as indicated there,
(13) it's a graduate level course with Stevens Institute
(14) of Technology, and somebody from Stevens came to
(15) the campus at the time, at the place where I
(16) worked, in Whippany, New Jersey. A lot of the
(17) early classes, yes, they were taught at the
(18) workplace.
(19) Q. Can you tell us how much time had been spent with
(20) regard to the optical fiber communications.
(21) A. It's been a long time ago.
(22) Q. Are we talking hours, weeks, months or something
(23) other?
(24) A. Probably weeks.
(25) Q. Can you approximate how many weeks of those studies

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(2) took with regard to the optical fiber?
(3) A. It's cumulative, you know, it was a graduate level
(4) course. I think we met at least once a week, twice
(5) a week for a couple hours, you know, like a
(6) semester type course. It's tens of hours
(7) altogether, for sure. A lot of the other classes
(8) would be like one or two-day classes.
(9) Q. And how long are those classes in general?
(10) A. You're going to have to point to specific classes
(11) on my CV.
(12) Q. Okay. Yeah, we'll go through. Cadkey Basic Design
(13) Training, how much time have you spent with regards
(14) to those studies?
(15) A. I can't remember that.
(16) Q. Are we talking hours or days or something else?
(17) A. I don't remember.
(18) Q. Could it have been a few hours?
(19) A. At least a few hours.
(20) Q. And Presentation Training at AT&T, how much --
(21) A. I think that might have been a three-day -- well,
(22) definitely multi-day class. That was in connection
(23) when I first became a supervisor. Actually, no.
(24) I'm sorry. That might be the next one after that,
(25) or third one, project. Presentation Training, I

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(2) think that was a multi-day class I took in Somerset
(3) off site.
(4) Q. And Geometric Dimensioning and Tolerancing, how
(5) much time did you spend with regard to that?
(6) A. Probably a couple hours.
(7) Q. Project Leadership and Management Skills?
(8) A. Yeah, I think that was a several-day class for new
(9) supervisors.
(10) Q. And was that during the time of employment with
(11) Lucent Technologies?
(12) A. Correct.
(13) Q. How much time did you spend with regard to the
(14) Cellular Communications class at Lucent?
(15) A. My guess is that was a multi-day class. Maybe like
(16) two or three-day.
(17) Q. Do you have any documentation with regards to any
(18) of these classes we've spoken about to this point?
(19) A. I may. I think I have attendance certificates for
(20) most of these, certainly the ones, you know, since
(21) I joined Affiliated, I'm pretty sure I have
(22) attendance certificates for all those, and
(23) typically they indicate, you know, the duration or
(24) hours or something, CEUs, things like that, but
(25) these older ones, I'd have to take an effort to

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(2) find them.

(3) Q. Understood. Do these certificates not only mention
(4) that there was an attendance or completion, do they
(5) give any detail of what it is that was instructed
(6) during that course?

(7) A. No. Typically not a certificate. You'd have to
(8) have like a syllabus or something or, you know,
(9) sometimes you get a binder or, you know.

(10) Q. Right. Going down to the next line with regards to
(11) Cellular Communications, CDMA Air Interface. So
(12) first of all, can you tell us what does CDMA stand
(13) for?

(14) A. Current division multiple access.

(15) Q. And what does that mean to lay people such as some
(16) of us here on this deposition?

(17) A. It's broad spectrum. That doesn't mean anything to
(18) you. I apologize. It's a way of -- it's actually
(19) invented and first used by the military because
(20) it's more secure. You're actually taking up like a
(21) voice conversation and chopping it into bits, so to
(22) speak, very rudimentary - probably make some people
(23) cringe who really understand the subject well - and
(24) you send little bits and pieces at different radio
(25) frequencies from one location to another, and at

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(2) the other end you reassemble and reconstitute the,

(3) again, if it's voice, it could be voice, data, you

(4) know, there's probably elements of like Internet

(5) protocol type things going on there, but it has

(6) certain advantages compared to what they call TDMA,

(7) which I forget what that stands for, but --

(8) Q. So was this also a course taken when you were

(9) employed with Lucent?

(10) A. Yes. And it was very relevant during the one and a

(11) half or so year period that I worked in the

(12) wireless group at Lucent.

(13) Q. How long was that course of study, the CDMA Air

(14) Interface?

(15) A. I think it was several days.

(16) Q. Were some of these courses at Lucent required for

(17) you to take during your employment there?

(18) A. Yes.

(19) Q. Electronics Cooling - Theory and Applications, if

(20) you could just tell us how many days or hours.

(21) A. That was probably two to three days. Maybe a few

(22) days.

(23) Q. EMC Design for System Integration?

(24) A. One to two days.

(25) Q. And the New Supervisor Training?

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(1)
(2) A. Yeah, I might have -- I think I was thinking of
(3) that one before when we were talking about project
(4) leadership. Again, probably two to three days.

(5) Q. Fire Inspector ICS, Middlesex County Community
(6) College, and we see there it says 120 hours. First
(7) of all, are you in some manner licensed or
(8) certified as a fire inspector?

(9) A. No.

(10) Q. What does that 120 hours represent?

(11) A. The amount of class time that I took.

(12) Q. Was that solely for fire inspection, 120 hours, or
(13) some other fields or some other areas?

(14) A. No, that was the name of the class and it was 120
(15) hours. I counted up at the time, and it was like
(16) twice a week for like three hours each night for
(17) like a semester.

(18) Q. Do you do fire inspections with regard to some
(19) property losses that you have in claims before
(20) litigation?

(21) A. Well, as a mechanical, I inspect -- my work,
(22) again - well, not again - I think the last page or
(23) second to last page of my CV, if you treat the last
(24) page as the fee schedule, covers broadly speaking
(25) mechanical and safety. So safety entails water

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based fire suppression systems, fire stopping, you know, how buildings are designed with fire in mind, means of egress is a huge part of that. So this 120 hour class covered all those things, and talked about the building code, the mechanical code, how it adopts NFPA codes, like NFPA 13 for construction of new water, fire sprinkler systems, NFPA 25 for maintenance, NFPA 20 for fire pumps, there's a whole host of different NFPA standards for covering different fire suppression, fire safety related areas or topics. So this class touched on a lot of that. And until I took that class, you know, it opened my eyes. I learned. And I took that a long time ago.

Q. With regards to that Fire Inspector ICS class with Middlesex Community College, Middlesex County Community College, first of all, is there any requirement to be an engineer or professional engineer with regards to taking that class?

A. No. No. I got picked on because I was the only engineer in the class.

Q. Is there any specific engineering courses within that class?

A. That's a confusing question, but the answer is no.

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I mean, it's a class in and of itself, so why would there be classes within the class?

Q. What I meant was the class or the course instruction of 120 hours may have different parts, chapters, focuses, things of that nature. So when I'm asking about engineering, in general did they have any section, part or subject that they covered even partially that was engineering?

A. I think a typical engineer, when you get your bachelors degree or masters degree, you're not -- maybe there are some exceptions out there, but my understanding of typical undergraduate and graduate degree programs is you wouldn't get into this level of specialization. Say you're an engineer and you get a bachelors degree and you join a mechanical/electric/plumbing consulting firm, and as you work there it would be like on-the-job training learning some of the stuff that this class covers. So for me, not having worked for an MEP, mechanical/electric/plumbing type consulting firm before I joined Affiliated, it was my way of learning the stuff that people in those professions who rub elbows with architects and what have you and, you know, are interested in the codes that

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(2) apply to construction of new buildings, you know,
(3) that information, it's a way of learning that
(4) information.

(5) Q. Okay. So would it be correct to state that you
(6) have not conducted any type of fire inspection or
(7) safety inspections of facilities, buildings or
(8) properties in any manner?

(9) A. Well, sometimes -- I don't -- we don't get hired to
(10) do formal inspections like that. When I get
(11) retained or Affiliated gets retained, usually it's
(12) because something failed, something happened, and
(13) then we focus in on that, but you need to
(14) understand like if, say, a sprinkler head
(15) activates, you want to understand the entire system
(16) and so, you know, a byproduct of many of my
(17) investigations is kind of a general review. I'm
(18) not necessarily preparing a report that, you know,
(19) gets submitted to like an authority, no, so it's
(20) not really a formal inspection of the entire
(21) system, but I'll, you know, if I write a report or
(22) something, I'll include bits and pieces of what
(23) might be in a formal report for, you know, just
(24) looking at the system.

(25) Q. Okay. So it's not for a direct function of you

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(2) doing any type of fire inspection, but if you go
(3) into a property and there's some type of mechanism
(4) that has to do with fire safety and there's a
(5) failure, for you to understand how it operates?

(6) A. Yes.

(7) Q. Would that be correct?

(8) A. Yes.

(9) Q. All right. And would that be for claims and
(10) litigation purposes that you would want to know
(11) this information?

(12) A. Yeah. I mean, means of egress comes up all the
(13) time and, you know, what codes apply. You have a
(14) stairway, step riser, tread dimensions, things of
(15) that, you know, that nature.

(16) Q. I'm just going to move on to Navigating New York
(17) City's Zoning and Code Regulations. First of all,
(18) can you tell us who is the sponsor of that class or
(19) course?

(20) A. That was a course that I chose to take to satisfy
(21) continuing education requirements, because I
(22) believed it would be relevant to the work I do, and
(23) it was. And there's different - I want to use the
(24) right term - businesses out there that they're kind
(25) of matchmakers. They find a trainer who is

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knowledgeable of a certain topic, like that, and, you know, they're a recognized continuing education credit. Like this Marzzo Engineering, I don't think that was offered through Marzzo Engineering, but I've taken a lot of CEU classes through Marzzo. And Marzzo, again, he's a matchmaker. He finds like, typically it's another engineer who specializes in a certain field, but Marzzo's the one who's licensed or recognized through State of New York Department of Education, or State of New Jersey Board of Professional Engineering and Land Surveyors, so you can get CEUs. They're the ones who issued that matchmaker entity. Again, Marzzo's an example. There's another one called something Moon and I can't think of the full name. They might have offered that class that you asked about.

Q. All right. And again, not to assume anything, the course was seven hours in total?

A. Yes.

Q. It says, Code Regulations, but again, without assuming anything, can you tell us what code regulations are the focus of that class. Are we talking building codes?

A. Building codes, yeah. So zoning obviously, you

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know, zoning and building codes go hand in hand.

Q. And again, would that be with regards to your ability as the engineer who is consulting to have knowledge of that information?

A. Yes.

Q. Mechanical Insulation Training Program. First of all, can you tell us what ASHRAE stands for, that acronym.

A. That was on the first page. American Society of Heating, Refrigeration and Air-Conditioning Engineers.

Q. And did you have to go attend these as a result of your employment at the time?

A. The simple answer to that is no. The indirect answer is, you know, I want to maintain my license, and to maintain my license I have to satisfy the CEU requirements, continuing education credit requirements, and/or unit requirements. So ASHRAE has annual meetings, winter meetings every five years, it used to be every five years they would have that in New York. So it was convenient to go into the city and sign up for a bunch of different classes, where I could get CEUs. And again, I always try to take topics that are relevant to the

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work I do.

Q. Now, with regard to ASHRAE, how much in your professional consulting business do you actually deal with insulation?

A. Oh, I've had a number of cases over the years where it's -- usually the big issue in heating and air conditioning system, insulation issue would be condensation. Water vapor condensing on cold pipes, chilled water typically, and then it drips down and creates a mold problem. So I've had a number of cases over the years relating to that. So if that answers your question.

Q. How long of a training program was that; are we talking hours, days or something other?

A. It might have been a couple hours, that one. Typically those classes that you see there, again, if I go to the winter meeting, each one's probably like two, three hours or something like that.

Q. Would that be the same for Testing, Adjusting and Balancing for Engineers and Designers?

A. I'd say so.

Q. And is it the same for The Commissioning Process in New and Existing Buildings?

A. Yes.

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(1)
(2) Q. Can you tell us a little bit about, first of all,
(3) when we're talking about Testing, Adjusting and
(4) Balancing for Engineers and Designers, what
(5) specifically are we talking about? Again, with
(6) regards to just focus on refrigeration or is there
(7) anything outside of that?

(8) A. So forced air heating and cooling is very popular,
(9) and so somebody has to design the duct work, the
(10) size of the duct work, the branching and all that.
(11) They have to include dampers, where you can adjust
(12) the air flow. So that's what testing -- and also
(13) in the water world, it's kind of similar, there's
(14) an analogy with pipes, you know, somebody's got to
(15) design that whole network of piping, you know. I
(16) need this size pipe here to handle the flow, and
(17) then as I get further away with different branch
(18) lines, I can reduce the pipe size. Somebody has to
(19) come up with a number. What is the reduction? And
(20) you do all that to try to get to approximately
(21) where you need to be, but then you need to fine
(22) tune it. So that's where the balancing part comes
(23) in.

(24) Q. And when you say fine tuning, we're talking about
(25) having the flow of whatever is flowing through

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(2) those pipes at a certain pressure?
(3) A. Right. Pressure. Flow rate. Like fifty feet per
(4) minute or gallons per minute in the water world.
(5) Q. The next you have here is Designing Residential
(6) Ventilation Systems to ASHRAE. And it says the
(7) Standard 62.2. What does the 62.2 mean?
(8) A. I think that's their energy efficiency standard. I
(9) really don't recall right now exactly what the
(10) title of that standard is.
(11) Q. Have you ever designed any ventilation systems
(12) during the course of your professional career?
(13) A. No, but I've evaluated them.
(14) Q. So would that be no?
(15) A. No.
(16) Q. And how long of a course of study, was that also a
(17) couple hours like the other ASHRAEs or something
(18) else?
(19) A. I would say so.
(20) Q. Couple hours, okay.
(21) A. Yes.
(22) Q. There's a one-day class at the IBR School in Basic
(23) Hydronic Heating Installation and Design. What
(24) application does that have with regard to your
(25) professional capacity as a consultant?

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(1) A. That has to do with -- so in the hydraulic world,
(2) it's basically either steam or hot water heating.
(3) So, you know, typically -- it could be commercial
(4) buildings, it could be residential buildings. So
(5) it has to do with -- the class was more focused to
(6) like a residential application, where, you know,
(7) how do you size a boiler for residential building,
(8) how do you determine how much heat output you need
(9) in each room based on the construction of the
(10) building, you know, the heat loss. How do you
(11) calculate the heat loss based on the U factor of
(12) the wall, you know, basically like the R value.
(13) U is just the inverse of R. So when you buy
(14) windows and doors, they all have a rating, and when
(15) you construct walls, you can calculate what the
(16) rating is of the wall assembly that you
(17) constructed, and ceilings and floors and all that
(18) good stuff.
(19)

(20) Q. Looking at this list were there are in parens,
(21) where it says half a day, two and a half days, I'd
(22) assume that all those numbers are the length of
(23) study; would that be correct?

(24) A. Yes, that's correct.

(25) Q. All right. Now, with regards to Lucas-Milhaupt

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(2) Fundamentals of Brazing, now, brazing is when you
(3) connect different alloys, soldering, or things of
(4) that nature?

(5) A. Yeah, it's essentially like soldering. It's just a
(6) higher temperature version of soldering, using
(7) different braze alloys. Even in the soldering
(8) world there's different alloys you can use. Back
(9) in the old days they used lead. No one wants to
(10) use lead anymore, lead tin, so now it's all
(11) typically tin antimony.

(12) Q. Now, OSHA 7200, can you tell us a little bit about
(13) that class.

(14) A. It was to talk about machinery and machine
(15) safeguarding. So the focus is on point of
(16) operation guarding, which is what we're dealing
(17) with in this case, this meat grinder case, and also
(18) there's a heavy focus on power transmission
(19) guarding.

(20) Q. And when you went through this class, first of all,
(21) approximately what year was that?

(22) A. Again, that was probably a good ten years ago.
(23) Approximately. I just don't know the exact date.

(24) Q. Did you have, in this one day did you have course
(25) material that was provided to you?

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(2) A. Yes.

(3) Q. And is that something that you maintain in the
(4) regular course of business for reference purposes?

(5) A. I think I still have that.

(6) Q. Now, OSHA 2045 with regards to guarding standards,
(7) was that also taken approximately the same time,
(8) 2012, or some other date?

(9) A. No. I think that was a year or two or three later.
(10) I'm not sure. That was the one where I went to
(11) Connecticut to take that class.

(12) Q. And what specific guarding standards, what does
(13) that mean for us as we see this here?

(14) A. That one got into a lot more detail. It may have
(15) also touched upon lockout/tagout and some related
(16) things. A lot more detail, you know, as you could
(17) imagine, four days versus one day.

(18) Q. All right. Is that also something that you
(19) received any printed course material?

(20) A. I believe I did.

(21) Q. And is that something that you maintain in the
(22) regular course of business for reference?

(23) A. I think I still have it.

(24) Q. Now, there's a course of OSHA 2250. I have some
(25) questions with regards to those Principles of

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(2) Ergonomics. So during those three days of study,
(3) first of all, what is the focus of the class
(4) specifically for us to understand what it is that
(5) you're looking at or what that you're trying to
(6) understand?
(7) A. I think the focus was on reducing musculoskeletal
(8) disorders, as they call them in the safety world,
(9) and it says there work related. So you've got, it
(10) covered things like the NIOSH Lifting Equation,
(11) which has to do with, you know, how much should
(12) somebody -- how much weight can a single person
(13) safely lift, and it's a function of, I guess it's
(14) based on the average person. I don't think there's
(15) adjustments for like big people versus small
(16) people. But like if you're holding a box really
(17) far out, it's less weight that you should be
(18) holding than if you hold it up real close to your
(19) body. So it covered that. Then it got into -- the
(20) guy who taught it was a professor who specialized
(21) in ergonomics and that sort of thing. And there
(22) were a lot of different models that got into like
(23) repetition. So he exposed us to all that stuff.
(24) Also, something as simple as like office
(25) ergonomics. So like here I'm in front of a

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computer. If I was typing, they teach you about like mutual angle. Each joint has a limit, a range, right, and you don't want to be operating near the upper or lower, you know, the ends of the range. You want to be operating in the middle. Same with your neck, all these muscles. So office ergonomics gets into how do you set up your office work station such that as much of your body as possible is at, you know, every joint is at the neutral angle. It makes you a lot more comfortable and you don't feel stressed out at the end of the day. So like that.

Q. Obviously the title, and sometimes they put titles on classes to give them a little bit of a greater interest sometimes. Really it's kind of confusing for me initially, and that's why I had the question, because it talks about musculoskeletal and nerve disorders. But what we're talking about is, is what is the proper ability for an individual to function a machine or mechanism --

A. They get into -- certain -- I apologize if I was talking over you. I should have -- I know the rule is to wait. I remember we got into some scenarios where it's like an industrial environment where

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(1) someone's doing something repetitious. They're
(2) taking something from here and they're putting it
(3) over there and, you know, it's not ideal. So there
(4) were models for how do you quantify how harsh or,
(5) you know, maybe not so bad each certain scenario
(6) is. And then I think they got into a little bit in
(7) terms of like administrative controls, you know,
(8) like rotating, like to have somebody work a couple
(9) hours doing something that perhaps is more
(10) stressful on your body, replacing them with
(11) somebody else and you alternate jobs where, you
(12) know, the demands on your body are different
(13) between the two jobs. It got into that. I'm going
(14) by memory, it's been a long time, but that was kind
(15) of the -- between that and the office ergonomics
(16) and the NIOSH Lifting Equation, those were the kind
(17) of things that were covered in that three-day
(18) class.
(19)

(20) Q. Would that class really focus in on, not only
(21) efficiency, but also increase efficiency and reduce
(22) basically injuries to individuals as they function?

(23) A. It's very much about reducing injuries, yes.

(24) Q. When was this class actually held?

(25) A. I think that was an elective that I took in

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(2) connection with the two certificates. It would

(3) have been probably related as an elective that

(4) satisfied the general industry certificate. Not

(5) construction. Again, it ballpark would be about

(6) ten years ago.

(7) Q. All right. Going back to, I'll go down to OSHA

(8) 2264, what specifically is this course about?

(9) A. So there are confined spaces. Say you've got

(10) somebody who's got to crawl inside a tank to clean

(11) it out. So it gets into what is a confined space,

(12) what is a permit required confined space, and

(13) permit required -- there's plenty of examples of

(14) horrible outcomes where people have been in a

(15) permit required confined space and, you know, as

(16) simple as you could go like, you know, in the city

(17) street, open up a manhole cover and go down there

(18) and there might be a lack of sufficient oxygen,

(19) which makes it a permit required confined space.

(20) So how do you, you know, what are the things you

(21) need to do.

(22) Q. Understood. I'm going to save your time on this.

(23) A. Good.

(24) Q. I'm just going to move forward.

(25) A. All right.

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(1) Q. Unless you felt important to add anything.

(3) A. No. No.

(4) Q. Okay. Now, this OSHA 7505, Accident Investigation,
(5) was that also done in conjunction with your
(6) license?

(7) A. With that certificate program, indeed.

(8) Q. Yes.

(9) A. Yes.

(10) Q. Okay. And that accident investigation, is it
(11) basically for construction or is it broader than
(12) that in some manner?

(13) A. Construction general industry, any kind of
(14) occupational safety situation, you know, if there's
(15) an incident, an accident, they cover, you know,
(16) what are the ways to investigate it properly.

(17) Q. And is that also something that they had provided
(18) you with written material for the course?

(19) A. I believe so.

(20) Q. And do you maintain that documentation in the
(21) regular course of your business for reference?

(22) A. I think I have it.

(23) Q. Okay. Thank you. Fall Arrest Systems, are we
(24) talking netting and things of that nature, lanyards
(25) and things that will prevent falls, or is that

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(2) something else?

(3) A. You are correct.

(4) Q. Okay. We're going to move on from that. The OSHA
(5) 7215, Lock-out/Tag-out. First of all, was that in
(6) conjunction with your licensing?

(7) A. With the certificate programs, yes.

(8) Q. And can you tell us a little bit about what the
(9) Lock-out/Tag-out course is about.

(10) A. It covers when you need to train employees
(11) regarding Lock-out/Tag-out for maintenance, repair
(12) situations and how, you know, the types of
(13) procedures you need to develop, the training, the
(14) refresher training, et cetera.

(15) Q. And we're talking about if there's a defective
(16) device that needs to be taken out of service,
(17) repaired, replaced, things of that nature?

(18) A. Yeah, but also, you know, there are like machines
(19) that have to be cleaned, printing presses, you
(20) know, there's all kinds of machinery with different
(21) requirements for cleaning and repair and what have
(22) you.

(23) MR. ZOHAR: Again, we're going to reduce
(24) this in writing, but I'm going to make a demand for
(25) both documents regarding the OSHA 7200, 2045, 2250,

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(2) 7505.

(3) Q. I want you to discuss under the listing of some of

(4) those OSHA items, there's one that says, Using

(5) Warnings and Instructions to Increase Safety and

(6) Reduce Liability. Do you see that?

(7) A. I see it.

(8) Q. And when was that course taken?

(9) A. I'm not sure.

(10) Q. Was that in the recent past or something else?

(11) A. Maybe in the last five to ten years, maybe closer

(12) to ten years. I don't recall.

(13) Q. Do you recall who provided that class?

(14) A. Yes. It was University of Wisconsin, through, they

(15) have some kind of like engineering outreach where

(16) they offer classes for engineers.

(17) Q. And these classes for engineers, were they done on

(18) site or were they done correspondence in some

(19) manner?

(20) A. That was on site. That was in Madison, Wisconsin.

(21) Q. Were you provided documentation for that and course

(22) material for that?

(23) A. Yes.

(24) Q. And do you maintain that in the regular course of

(25) your business for reference?

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(2) A. Yes.

(3) MR. ZOHAR: We'll make a demand for that
(4) and reduce it to writing also.

(5) Q. How much of your business deals with asbestos
(6) materials? We're talking about litigation and
(7) matters that are in prelitigation claims.

(8) MR. REDD: We're talking about at this
(9) point in time right now?

(10) MR. ZOHAR: We'll say within the last five
(11) years.

(12) MR. REDD: Gotcha.

(13) A. I'm a little bit fuzzy on what you're trying to get
(14) at.

(15) Q. Does Affiliated, or you, have anything to do with
(16) asbestos in the past five years?

(17) A. Well, I occasionally run into it in my inspections.
(18) So certainly just from a protection of myself and
(19) being aware. So our younger engineers, I tell them
(20) what to look out for. Occasionally we might get a
(21) case involving, that has to do with asbestos,
(22) asbestos remediation. I know that I've had cases
(23) where -- I had something in the last year where I
(24) told the client, Look, you know, the cost of doing
(25) remediation's going to be high because you've got

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(2) asbestos pipe insulation, you know, so those are
(3) the examples I can give you.
(4) Q. Besides those three days, have you done anything
(5) else with regard to asbestos?
(6) A. No. I mean, after taking that class, I could have
(7) become one of these inspectors, like in the city
(8) you always have to have somebody sign off of
(9) whether it's an asbestos job or non-asbestos job.
(10) You can get a license, if you will, to be the one
(11) who actually goes and takes samples and sends them
(12) to the lab to figure out if there's asbestos
(13) containing materials in like a sample of floor tile
(14) or plaster that you took. I don't do that.
(15) Q. ASSE Webinars & Conference Calls, first of all, can
(16) you tell us what ASSE stands for.
(17) A. So earlier we talked about ASSP, American Society
(18) of Safety Professionals. Well, they changed their
(19) name. They used to be called the American Society
(20) of Safety Engineers. So that's why it shows ASSE
(21) there. I suppose I should update it.
(22) Q. How much time was spent with regards to the
(23) webinars and conference calls that you have noted
(24) here?
(25) A. Quite a few hours. I mean, they would put together

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(2) virtual like classes where they'd have like
(3) different people talk about different subjects
(4) related to slip, trip and fall.
(5) Q. Now, is this something that was done a few hours
(6) every year or something other than that?
(7) A. I think this is kind of a cover all that covers a
(8) couple different things. Like at the end there,
(9) Critique of Federal Lockout/Tagout Compliance
(10) Directive, that might have been like one to two
(11) hours. Some of the other ones might -- I remember
(12) one of them was like an all day thing and they had
(13) like six different people talking for like 40
(14) minutes a piece, and it's different, you know, and
(15) there would be materials usually, you know,
(16) sometimes if they have a standard, ASSE, now ASSP,
(17) is, you know, some of these professional
(18) organizations, in particular American Society of
(19) Safety Professionals, ASSP, is a big developer of
(20) safety standards. So some of these conference
(21) calls are in conjunction with like an update to one
(22) of their standards. So they kind of talk about the
(23) changes and things like that.
(24) MR. REDD: Excuse me. Hey, Gil, can we
(25) take two minutes, please.

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(2) **MR. ZOHAR: Yeah, absolutely.**

(3)

(4) (Short break was taken)

(5)

(6) **BY MR. ZOHAR:**

(7) Q. All right. We're going to go to the next page, and
(8) just looking down at where it says -- first of all,
(9) the next page with 3 on the top. Go down to that
(10) portion where it says, Fundamentals of Motors and
(11) Controls. Do you see that? And it's Pfreundschuh,
(12) right?

(13) A. Yes. Yes, I see the Fundamentals of Motors and
(14) Controls.

(15) Q. So can you tell us a little bit about, first of
(16) all, who was the provider of that course?

(17) A. That was Marrzo Engineering.

(18) Q. And was that in conjunction with your employment?

(19) A. To maintain my license, yeah, I need CEUs.

(20) Q. Did you receive any course material with regards to
(21) that class?

(22) A. I may have.

(23) Q. And if you have that, do you maintain that in the
(24) regular course of business for reference purposes?

(25) A. Yes.

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(2) MR. ZOHAR: I'm just going to request a
(3) copy of that, those documentations.

(4) Q. Where was the specific focus, you know,
(5) fundamentals basically is a very broad area; so was
(6) it a very broad or a focused class on some specific
(7) aspects of motors and controls?

(8) A. I think it was pretty broad, that class.

(9) Q. And when did you take that course?

(10) A. This list is more or less in chronological order,
(11) so since we're nearing the end of the list, more
(12) recent than the others. I can't give you a date
(13) off the top of my head.

(14) Q. Are we talking within the past probably two, three
(15) years?

(16) A. Yeah, perhaps. I think it was pre-pandemic. So I
(17) mean, maybe three, four, five years.

(18) Q. In Fundamentals of Motors and Controls, did it have
(19) any information with regards to emergency stop
(20) buttons for machines such as the grinder that we're
(21) here for today?

(22) A. I don't think so.

(23) Q. Did it have anything with regards to safety
(24) labeling, instructions, both in the packaging and
(25) on the machine attached thereto?

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(2) A. I don't think so.

(3) Q. I just want to go back actually to the Using
(4) Warnings and Instructions, that University of
(5) Wisconsin course that you had taken. Did that
(6) course in any manner, even though it says Warnings
(7) and Instructions, did that in any manner have any
(8) information with regards to the usage of emergency
(9) stop buttons for machines such as the grinding
(10) machine or other mechanical devices that's similar
(11) in function?

(12) MR. REDD: Note my objection to form. Go
(13) ahead.

(14) A. I don't think that class covered emergency stop
(15) buttons.

(16) Q. Was it just totally with regards to warning signs
(17) and labels and instructions?

(18) A. Yeah. It covered warnings, signs, labels, design
(19) of them, European standards versus American
(20) standards, embedded warnings in manuals.

(21) Q. In any of the either associations or societies that
(22) you're a member of, do you take part in any type of
(23) recommendations with regards to warning signs,
(24) labels, instructions with regards to machinery?

(25) A. Yes.

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(1)
(2) Q. And which society or association is it that you
(3) specifically have made recommendations with regards
(4) to those subjects, warnings, signs?

(5) A. I believe our latest rewrite for the table saw
(6) requirements includes some warnings. I believe
(7) that's the case. I think what we're trying to do
(8) with -- it's been many years that we've been
(9) working on a rewrite of the main umbrella standard
(10) for ANSI 01, the Woodwork and Safety Standards
(11) Committee. So we're trying to adopt what the UL
(12) standard. Basically our standard covers larger
(13) machines. Three phase, 5 horsepower or above,
(14) whereas UL covers the smaller machines. So UL has
(15) warnings. They're very specific language in the UL
(16) standards. So we're trying to move in that
(17) direction.

(18) Q. Meaning some of the larger machines will have some
(19) of the more heightened warnings and signs as UL
(20) would have?

(21) A. I believe so, yes.

(22) Q. Do you know if any of the recommendations you have
(23) made have been adopted at any point?

(24) A. No, we haven't gotten to that point yet.

(25) Q. Is that your recommendation something that you

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(1) GEORGE PFREUNDSCHUH
(2) maintain regular course of business?
(3) A. Keep in mind, all the stuff you're asking for is
(4) covered under copyright protection, okay, anything
(5) I work on on that committee is copyright of the
(6) WMMA, okay?
(7) Q. Okay. But it does exist and it is documented?
(8) A. As things evolve, yes.
(9) Q. Is there access, and I understand that there's
(10) copyrights, but is that a document that you have
(11) available?
(12) A. There is a working document that I have access to.
(13) Q. Okay. Going back to page 3, first of all, the
(14) Construction Safety Engineering and Site Audits,
(15) who's the provider of that?
(16) A. I don't recall. It might have been Marrzo.
(17) Q. And does that deal with issues of construction
(18) employees that might be injured as a result of
(19) their work on site or their work with specific
(20) machinery?
(21) A. I believe it did.
(22) Q. Are there forms and documentation and printed
(23) materials with regards to that course?
(24) A. If I got a handout, I might have it somewhere in my
(25) office. That one I don't remember. I don't think

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(2) they gave me a binder.

(3) MR. ZOHAR: I'll make a demand for the
(4) Construction Safety Engineering and Site Audit
(5) documentation.

(6) Q. The ASTM workshop, Multifactorial Analysis of Slip
(7) and Fall Events, despite the fact that it says slip
(8) and fall events, does it take into account all
(9) types of accidents, not just someone walking and
(10) falling or slipping?

(11) A. I don't think so.

(12) Q. How long was that course?

(13) A. I remember I went down to Conshohocken,
(14) Pennsylvania for that. There were a number of
(15) speakers. Each one was, I don't know, half hour or
(16) something. It was the better part of a day with
(17) travel.

(18) Q. I just had a question with regards to your patent,
(19) with regards to the door gasket. Can you explain
(20) to us what specifically is it that you had patented
(21) here.

(22) A. So in telecommunications equipment, that was when I
(23) was working with the wireless group at Lucent
(24) Technologies, we made bay station cabinets. So
(25) when you drive past a cell site, you see a tower,

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or maybe on a building, top of a building, you see some cellular antennas. Well, there's always going to be cabinets with radios, amplifiers, et cetera. And those cabinets obviously have doors so you can access the equipment inside, do maintenance, repairs, upgrades, and the doors have to be -- have to have a special seal. So the seal not only addresses, you know, prevents water, you know, weather intrusion, but also the seals help prevent RF, radio frequency, energy from leaking out. They actually test the cabinets. They do testing in special rooms. And all these cabinets also have an intrusion alarm, so that if somebody pries open, breaks open into a cabinet, you want your network to sense that so you can send somebody out to investigate. So the idea was that you could forego a mechanical switch, and instead, just monitor electrically a circuit through that gasket. So it was just a novel different way of implementing an intrusion alarm.

MR. ZOHAR: Off the record.

(Off the record discussion was held)

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(2) MR. ZOHAR: Back on the record.

(3) Q. Looking at the professional experience that you
(4) had, would it be correct to say that the first job
(5) that you had received after graduate studies was at
(6) AT&T Bell Laboratories?

(7) A. Yes.

(8) Q. And the focus during the course of your employment
(9) at AT&T Bell Laboratories was communication, optic
(10) networks and things of that nature?

(11) A. Yeah. I mean, some of it also was pretty basic,
(12) like testing of welds, testing of the strength of a
(13) linkage. There's a lot of ancillary stuff that's
(14) related, but, yeah, I mean, generally the
(15) application was types of communications, whether
(16) it's through radio frequency, or optical fiber.

(17) Q. And did that same focus transfer from AT&T to
(18) Lucent Technologies?

(19) A. Well, the way the resume's set up, I've got the
(20) first seven years, and then if you go to page 4,
(21) under Lucent Technologies Network Wireless, it just
(22) lists the two years I was in network wireless
(23) group.

(24) Q. But basically the same focus, communications, optic
(25) fiber networks, things of that nature and

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(2) communications in general?
(3) A. All right. You could -- at a very, very high
(4) level, you could make that argument.
(5) Q. Yeah, absolutely. I mean, we're putting it in some
(6) very simplistic layman terms, and I am by no means
(7) trying to diminish anything you have done here.
(8) Without a doubt, we need people to take care of
(9) these things for us. But it's the same field of
(10) expertise, and you transitioned at some point after
(11) AT&T to Lucent?
(12) A. Well, you're specializing in different things,
(13) but --
(14) Q. Would it still be in communications and optic fiber
(15) networks?
(16) A. Yeah, but the stuff I was involved in before I
(17) joined network wireless was more on the R & D side,
(18) not so much on like the applied design to get stuff
(19) out in the field, whereas when I was in network
(20) wireless, it was designing stuff to go in the field
(21) that had to meet established requirements,
(22) established test criteria. So it was more -- I
(23) didn't really -- we weren't spending a lot of time
(24) developing stuff. People developed modules that
(25) went inside the cabinet and it was almost more of a

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project management role, just working with all the established groups and departments and making sure the product got all the boxes checked off.

Q. While at AT&T Bell Laboratories, at any point did you deal with anything regarding safety warnings, signs, labels and things of that nature?

a. When I was, for example -- yes. The example is when I was a manager, if we look at page 4, the next job I had, government communications laboratory. Managed group of engineers and technicians developing high-power, high-reliability, optical fiber amplifiers.

So we would test these things and there would be light that, you know, if a fiber moved, there would be light leaving, kind of like a flashlight, right, except instead of holding a flashlight, you've got a little tiny optical fiber that's blasting a couple watts of light out. You don't want to get that in your eyeball, so people had to wear proper glasses, and there would be, we would have rooms that would have warning signs outside. We would work with the EH&S employee, health and safety department at Bell Labs, or AT&T, Lucent at the time, to make sure that people in my

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(2) group got properly trained, that we had proper
(3) signage. I think we had one case, like a light,
(4) you know, with a twitch could turn on and off.
(5) So someone entering a room knew when you were
(6) doing testing, so they knew that if they entered
(7) that room, they have to wear their special glasses,
(8) et cetera.
(9) Q. Other than what you had spoken, was there any other
(10) focus with regards to labeling signage and warnings
(11) while at Bell Labs?
(12) A. That's the one example I could think of.
(13) Q. All right. Going to Lucent, and I know that
(14) sometimes, you know, in these CVs you try to put as
(15) much information that is relevant, but the
(16) notations that you've put here with regards to your
(17) functioning, does that encompass pretty much what
(18) you did while you were at Lucent Technologies
(19) Wireless?
(20) A. That's a nice way of summing up what I did while I
(21) was there.
(22) Q. Any, you know, function with regards to creating,
(23) advising on safety, signs, warning signs and
(24) instructions in your capacity at Lucent
(25) Technologies Wireless?

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(2) A. Communications lab, government communications lab,
(3) no.

(4) Q. And so you've already jumped to the next one. None
(5) to both of those; would that be correct?

(6) A. Well, for network wireless, you know, we worked
(7) with people. I don't remember personally being
(8) involved in, you know, safety signs and labels. We
(9) work with like groups that would develop -- they
(10) were like specialty engineering groups that
(11) probably addressed safety concerns.

(12) Q. Are they within Lucent Technologies or outsourced
(13) entities that dealt with it?

(14) A. Well, at the time I think they were within.

(15) Q. And you had already said also with regard to
(16) government communications lab, no with regards to
(17) that, regarding warning signs, labels,
(18) instructions?

(19) A. Not for the end user, no. Just, again, just for
(20) the safety of the employees of my group standpoint.

(21) Q. As you're testing and design, just taking
(22) precautions to keep everybody safe?

(23) A. Right.

(24) Q. So JDS Uniphase, also, is this with regards to
(25) communication?

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(2) A. Yes.

(3) Q. Okay. Is it computer or more than just computer
(4) communication, are we talking Internet, are we
(5) talking live communications, phones and other type
(6) of services that are encompassed within that?

(7) A. All right. I'll try to explain at a high level.
(8) Way way back in the day, when you'd make a long
(9) distance phone call, it would go through coaxial
(10) cable. Kind of think of like cable TV cable, but
(11) on a bigger level.

(12) Q. On the bottom of the ocean necessarily?

(13) A. It could cross the ocean, across land. So then,
(14) you know, with the fiberoptic revolution, they
(15) started sending the signals through optical fibers,
(16) and that technology grew and grew and, you know,
(17) you went from sending only one signal through an
(18) individual optical fiber, to sending many, many
(19) signals through a single optical fiber. So where
(20) has there dense multiple channel, WDM, so you have
(21) to regenerate. So even back in like across an
(22) ocean, or across land, with the old co-ax, the
(23) signal weakens over distance and you have to do
(24) something. So they used to electrically regenerate
(25) the signal. And then with the advent of optical

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fibers, and in particular, these optical fiber amplifiers, using rare earth elements like erbium, you don't have to change an optical signal to an electrical signal and back to an optical. You can keep it as an optical signal and just optically reenergize that pulse of light, if you will, make it stronger and send it on its way for another, you know, 50, 100 kilometers, and then repeat the process again. So that's optical amplification. And that group that I worked at at JDS Uniphase, we worked on these optical fiber amplifiers that could do that, but were particularly designed to amplify like 40 signals, 40 different colors of light at the same time.

Q. Is that something that's still in use as of today?

A. Oh, they're still out there. Technology keeps advancing.

Q. Anything at JDS that dealt with, and I'm not talking about just taking care of you and your employees when you're working and sometimes, you know, there's radiation or, you know, lights that might damage the eyes, but was there any type of function that you had at JDS Uniphase that dealt with warning signs and labels, instructions?

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(1) A. I didn't deal with -- we were making amplifiers for
(2) Lucent. I left Lucent and then Lucent became a
(3) customer. Nortel, different companies like Lucent.
(4) So I wasn't involved in, you know, they did their
(5) own engineering of their entire system, those
(6) customers. So it was just similar to what I was
(7) talking about before, where I was a manager, so I
(8) was worried about the safety of the people in my
(9) group, and we had an EH&S type person that worked
(10) in our couple hundred person facility and helped
(11) support managers like me with training my employees
(12) periodically. And we worried about chemical
(13) safety, so there's chemical exposure. Sharps,
(14) glass fibers or thin and sharp kind of like
(15) needles, so, you know, making sure people didn't
(16) poke themselves, get a piece of glass stuck under
(17) their skin, things like that.
(18)

(19) Q. So before we move on to Affiliated, which is the
(20) next and last stop and current stop for you, would
(21) it be correct to say that from the onset of your
(22) education from undergraduate in to becoming an
(23) engineer and all the way to 2002, would it be
(24) correct to state that you didn't deal with or
(25) specialize in designing any type of emergency stop

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(2) buttons?
(3) A. Yes.
(4) Q. Or any type of warning instructions and signage
(5) that may go with machinery?
(6) A. That's fair.
(7) Q. All right. Now, when you were initially hired by
(8) Affiliated Engineering Laboratories, were you
(9) employed as a regular full-time employee initially?
(10) A. Yes.
(11) Q. Now, Affiliated at the time that you initially
(12) started your employment with them as a regular
(13) employee, how large of a facility was Affiliated in
(14) 2002, personnel, departments, things of that
(15) nature?
(16) A. You want like the number of engineers, is that what
(17) you're looking for?
(18) Q. Yeah. Yeah. How many employees does Affiliated
(19) Engineering have in 2002 when you became employed
(20) there?
(21) MR. REDD: That's all employees, not just
(22) engineers?
(23) MR. ZOHAR: Right. An estimate is fine.
(24) We'll ask for engineering too.
(25) A. Well, even back then we had a related, you know,

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like a telecommunications computer division. They were pretty small. We had metallurgical group that was like two or three people. They had maybe dozen and a half, two dozen engineers back then.

Q. And I take it the specialties varied out of those engineers that were employed by Affiliated in 2002?

A. Yes.

Q. You gave us a breakdown, and you said metallurgic, two people, telecommunications division; how many engineers were part of the telecommunications division?

A. I don't know.

Q. And what are the specialties out of those twelve to eighteen can you recall as you sit here today?

A. We had a lot of mechanicals back then. I think we were dominated by mechanical engineers back then. A handful of civil engineers, and I think only one electrical back then. An electrical engineer.

Q. And when you initially were employed by them, by Affiliated, first of all, were you working out of the Edison, New Jersey facility or some other location?

A. I was working out of Edison. Not the same building I'm in today.

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- (2) Q. And who's your direct supervisor when you initially
- (3) worked at Affiliated?
- (4) A. Back then it was Jim Schwalje.
- (5) Q. Can you spell that.
- (6) A. Excuse me?
- (7) Q. Can you spell his last name.
- (8) A. S-C-H-W-A-L-J-E.
- (9) Q. And is Tim still employed by Affiliated?
- (10) A. Jim, as in James.
- (11) Q. Jim. Sorry. Thank you. Is Jim still employed by
- (12) Affiliated currently?
- (13) A. No. He's left.
- (14) Q. Do you know where he is at currently?
- (15) A. Generally he's in Pennsylvania to my knowledge.
- (16) Q. Is he retired or moved on to, you know, other
- (17) ventures?
- (18) A. Retired.
- (19) Q. What department, if there was such a split in
- (20) Affiliated when you first initially worked there,
- (21) what department or portion of the business, if
- (22) there was some type of sectioned off departments,
- (23) did you work in initially?
- (24) A. It was the engineering group.
- (25) Q. And when you started there initially in the

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(2) engineering group, what was your focus?
(3) A. I did a lot of claims work and slip, trip and fall
(4) type cases back then.
(5) Q. So it would be correct to say that from the outset
(6) of your employment with Affiliated you were already
(7) doing either litigation work or matters that were
(8) in claims prelitigation?
(9) A. Yes.
(10) Q. And had that stayed consistent since you initially
(11) started working for Affiliated?
(12) A. At a very high level you could say that, yes.
(13) Q. Now, you have under Affiliated, you have two lines.
(14) One is engineering consultant, 2002 to present, and
(15) under that it says, Engineering services provided
(16) on a retained basis. What do you mean by that?
(17) A. What it means, you know, we have people that come
(18) to Affiliated with a claim that they want an
(19) engineer to investigate, or a litigated matter
(20) where they're seeking assistance, and they retain
(21) us. And the company decides, you know, the
(22) management, decides who to assign that to. Now,
(23) over time, as I developed relationships, you know,
(24) we get repeat business, and somebody might
(25) specifically want me. That happens more and more

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(2) nowadays. But when I started, that's how it
(3) worked.

(4) Q. The reason I'm asking is, I understand most times
(5) that if someone is either a full-time employee
(6) somewhere, then it's a little different on how
(7) they're compensated for their services. Salary.
(8) So services provided retained basis and so forth,
(9) just makes it confusing, just so you understand why
(10) I'm asking that question. Were you still a
(11) full-time --

(12) A. All right, so it's not fixed price. It's not like
(13) somebody signs a contract and gives us a lump of
(14) money. No. We've always charged on an hourly time
(15) and materials. We tell them what our hourly
(16) billing rate is and they agree to that.

(17) Q. And the claims Work that you initially started at,
(18) was there a specific focus on which claims you
(19) would have been assigned in 2002 when you started
(20) working for Affiliated?

(21) A. It was probably like plumbing, HVAC, fire
(22) protection and slip, trip and fall type cases. It
(23) evolved a little bit over time. It got more into
(24) machinery.

(25) Q. Now, prior to Affiliated had you ever done any type

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(2) of claims investigation with regards to plumbing?
(3) A. No.
(4) Q. With regards to fireproof prevention?
(5) A. No.
(6) Q. With regards to HVAC or slip, trip and fall?
(7) A. No.
(8) Q. What courses or training did you undergo after you
(9) became full-time employed with Affiliated in 2002
(10) to enable you to conduct this type of work?
(11) A. Well, first of all, I was a licensed professional
(12) engineer at the time. So I always had that
(13) credential before joining Affiliated, and you learn
(14) from other engineers. Other senior engineers.
(15) Q. When you initially started working at Affiliated,
(16) you know, you already told me, and I'm just going
(17) to refer to Jim Schwalje, but, Jim, I'll use his
(18) name, make it easier, as a direct supervisor, was
(19) he that experienced engineer that oversaw you in
(20) essence, or something other?
(21) A. He had experience. He was more of a general
(22) manager, but, yeah, he had a good feel for the
(23) business and what each assignment required, and he
(24) knew when it was necessary for me to talk to a
(25) seasoned engineer that had a lot of, you know,

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(2) relevant experience in a particular subject area
(3) that I might need to be aware of.
(4) Q. Now, understanding you're a professional engineer
(5) at the time, but you hadn't dealt with any of these
(6) specific areas prior to your employment with
(7) Affiliated; would that be correct?
(8) A. You can't say that entirely. I mean, I had a lot
(9) of hands-on experience that has come into play
(10) often times. I think what I didn't have before
(11) joining Affiliated is the knowledge of codes and
(12) standards. Applicable codes and standards.
(13) There's many, many, many codes and standards out
(14) there, and it's learning where they are, what
(15) exists and what you need to be aware of and mindful
(16) of and take into account in forming opinions.
(17) Q. Right. What I'm trying to really focus in on is,
(18) despite -- with understanding that you're a
(19) professional engineer, but you did not function
(20) professionally with regards to plumbing, HVAC, fire
(21) or slip, trip and falls before Affiliated. That's
(22) what I'm asking. Would that be a correct
(23) statement?
(24) A. Right, I wasn't -- I mean, some of the stuff I did
(25) got into aspects of plumbing, or fire protection,

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(2) HVAC. I mean, you know, the laws of physics and

(3) fluid mechanics and thermodynamics and all those

(4) things you learn to get your degrees still apply.

(5) It's really the methodologies of how things are

(6) designed and, again, the codes and standards.

(7) That's really what you learn and have to be aware

(8) of once you get into this business.

(9) Q. Right. But my question is simple. Did you ever do

(10) work with regards to plumbing before going to

(11) Affiliated? And we're talking about

(12) professionally. Not that you studied in a class,

(13) but did you work with plumbing before this --

(14) A. Yeah, in my house I did.

(15) Q. Okay. So we're talking about professionally. Did

(16) you work professionally in your house with regards

(17) to plumbing?

(18) A. No, no one's paying me.

(19) Q. Okay. And did you work with HVAC in a professional

(20) capacity prior to your employment with Affiliated?

(21) A. No, not being compensated.

(22) Q. Did you in a professional capacity engage with

(23) regards to fire or fire safety before in your

(24) employment with Affiliated?

(25) A. I don't think so. I mean, I may have touched upon

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it. Actually, back to HVAC, no, I did have a project. I almost went to United Arab Emirates. We were in the process of building a shipping container that was going to be fitted with telecommunications equipment that had to be cooled with forced air cooling, so that's HVAC. So I started working on a design for that, and then the project got cancelled. That was back in like '96.

Q. With regards to prior to your employment at Affiliated, did you engage in your professional capacity with regard to slip, trip and falls in any manner?

A. Well, back to that UAE project, we probably had a stairway that had to go along with getting in and out of the shipping container, you know, not on a regular basis, but, you know, from time to time it might have been part of a project.

Q. Other than what instance that you had just stated, can you recall any other time that you had a professional engagement with regards to a slip, trip and fall issue that had to be dealt with professionally before being employed by Affiliated?

A. No.

Q. Now, you're being compensated for being here today?

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(2) A. Yes.

(3) Q. And you've been retained by defense counsel for the
(4) purposes of the litigation in the Khusenov matter?

(5) A. Yes.

(6) Q. Can you tell me first of all when it was that you
(7) were initially contacted by defense counsel and
(8) retained?

(9) A. I'm not sure, but it would have been late last
(10) year.

(11) Q. And was that done through phone conversation,
(12) email, correspondence or a combination of those
(13) items?

(14) A. Initially I was working with Carmen Vasquez. She
(15) left the firm, and then I worked with Peter Uretta.
(16) So I don't remember ever working with Carmen prior
(17) to this assignment. My guess is that it came in to
(18) our new project group and they assigned it to me,
(19) you know, they gave Carmen my resume and it was
(20) vetted and they decided to pick me and that was it.

(21) Q. And the initial communication you said was with
(22) Carmen, the whole vetting process?

(23) A. Well, I mean, the vetting would have been behind
(24) the scenes. Typically our new project group, if a
(25) client -- we have a website. Clients can -- they

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(2) can either pick up a phone and call new projects or
(3) they can through the website say, Hey, here's a
(4) project. I'm looking for someone. And then
(5) they'll start the communication. I'm not part of
(6) that. And new project will offer the resume or
(7) multiple resumes of engineers from Affiliated that
(8) they think are qualified and available for the
(9) assignment, and ultimately the client will make a
(10) decision and then I'll get involved.
(11) Q. Now, at the end of 2021, when you were retained,
(12) and I understand it's an estimate, you don't know
(13) exactly when, but at that time can you tell me how
(14) many engineers were there at Affiliated during this
(15) time that there was some vetting going on in
(16) selection of an engineer that ultimately came up
(17) with your name?
(18) A. I think we've got 30 some. We've got quite a few.
(19) Q. Now, out of those 30 some engineers, are they all
(20) full-time employees or something other?
(21) A. Yeah, they're all full-time. I mean, some of our
(22) guys are semi-retired at this point.
(23) Q. All right. Now, and I understand we have responses
(24) with regards to some of these questions, but I want
(25) to make sure we put this on the record also. In

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(2) your capacity as a consultant, on how many
(3) occasions in the past ten years have you
(4) represented a plaintiff?

(5) A. One of the depositions listed I was basically a
(6) plaintiff's expert. It's rare. It's not often.
(7) On a claims side, I get involved in matters,
(8) subrogation matters. So there, if it becomes
(9) litigated, I'll become the plaintiff's expert.
(10) Most of those never reach litigation, but, you
(11) know, they are kind of plaintiff oriented, they
(12) tend to be plaintiff oriented assignments.

(13) Q. And the assignments for litigation purposes, within
(14) the 30 engineers that are employed by Affiliated,
(15) what is the percentage of the engineers, their
(16) representation of defendants in their capacity as
(17) engineers?

(18) A. I can't speak for everyone else. I have no idea.

(19) Q. Do you take part in management, especially as part
(20) owner of Affiliated?

(21) A. No.

(22) Q. Are those records something that is available at
(23) Affiliated and would be documented and maintained
(24) in the regular course of business?

(25) A. I have no idea.

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(2) Q. Who would know that information?

(3) A. We have a general manager who manages things.

(4) Q. Do you have any input in the manner that the
(5) general manager manages Affiliated?

(6) A. A little bit as an owner, but, you know, I'm not
(7) micro managing him.

(8) Q. But just in your general dealings in, I take it
(9) that you run in and are familiar with other
(10) engineers that are employed by Affiliated; would
(11) that be correct?

(12) A. Yes.

(13) Q. Are there general meetings that are conducted at
(14) Affiliated with all the engineers at times, or the
(15) majority of engineers that are available at the
(16) time?

(17) A. What do you mean by meetings?

(18) Q. Conferences to discuss business that Affiliated is
(19) engaged in, or other matters of concern for
(20) Affiliated.

(21) A. We sometimes have brief get-togethers, like a
(22) luncheon get-together.

(23) Q. And during those get-togethers do you have
(24) discussions with other engineers possibly on what
(25) it is that they are working on?

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(2) A. Yeah. I mean, I bump into guys in the hallway,
(3) guys who tend to be along my hallway. I'm friendly
(4) with people, but I don't have a good handle on, you
(5) know, from day to day, month to month, year to year
(6) exactly what they're doing.

(7) Q. In the course of your ownership or partial
(8) ownership of Affiliated, is there some type of
(9) review to see where income streams and cash flow is
(10) coming that you take part in?

(11) A. Yes.

(12) Q. And would the names of the entities and facilities
(13) and individuals that retain Affiliated, would that
(14) be documented?

(15) A. We have information.

(16) Q. And based upon those names of facilities, entities,
(17) law firms, whatever it may be, would you be able
(18) to, by looking at that customer, be able to
(19) identify if someone is in litigation, a plaintiff
(20) in litigation, a defendant in litigation, is that
(21) something that you'd have available for you in the
(22) records maintained in the regular course of
(23) business of Affiliated?

(24) A. We have information, okay, we understand our
(25) business. I'm not sure exactly what you're trying

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(2) to get at. I mean, maybe if you asked me, you
(3) know, I can give you some generalities, if that
(4) helps you, you know, I'm not inclined to give you
(5) any specifics. I don't have them in front of me.

(6) Q. Understood.

(7) MR. REDD: We don't want you guessing here,
(8) so if you don't have that.

(9) THE WITNESS: No, I don't want to guess.

(10) MR. REDD: Don't guess. Don't speculate.

(11) THE WITNESS: Again, I'm trying to be
(12) cooperative. I don't want this to escalate. It
(13) doesn't benefit anybody, but --

(14) MR. REDD: We are getting far afield now
(15) again. Again, we are in Federal Court. It's not
(16) proper for me to say don't answer, but I think the
(17) questions being asked are very far afield. I don't
(18) think they're particularly relevant, but I'm not
(19) going to instruct the witness not to answer. I'm
(20) going to ask the witness to please answer to the
(21) best of your ability. Don't guess and don't
(22) speculate.

(23) Q. So I'll try to make it just more simplistic. Would
(24) it be correct to state that Affiliated Engineering
(25) Laboratories, Inc., that you are a part owner and

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(2) an engineering consultant there, that the majority
(3) of the consulting work that is done by Affiliated
(4) Engineering for litigation purposes is for defense
(5) counsel; would that be a fair statement?

(6) MR. REDD: It was asked and answered. Go
(7) ahead, answer it again.

(8) A. That's a fair statement.

(9) Q. In your capacity as an engineer consultant, have
(10) you consulted with regards to premise liability
(11) cases?

(12) A. Have I?

(13) Q. Yes.

(14) A. What do you mean by premise? I've heard that
(15) before, but I'm not -- it hasn't been used often.
(16) So tell me what you're thinking by premise
(17) liability.

(18) Q. Yeah, absolutely. I want to make sure that it's
(19) clear. So premise liability, in general we're
(20) talking about injuries that occur on a piece of
(21) property. And it could be a variety. It could be
(22) a slip and fall on a piece of property. It could
(23) be involving stairs, elevators, anything of that
(24) nature where there's an injury upon a piece of
(25) property. Usually residential, but sometimes new

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(1) GEORGE PFREUNDSCHUH
(2) construction and so forth. So in those premise
(3) liability actions have you testified prior to today
(4) with regards to an accident or injury where you
(5) were testifying as the defense expert?
(6) A. Yes.
(7) Q. Okay. Are you familiar with Osorio versus Home
(8) Depot?
(9) A. Are you suggesting I gave testimony in it? It
(10) doesn't ring a bell. Is that on my Rule 26 list?
(11) I'm trying to figure out where you came up with
(12) that from.
(13) Q. Yeah, that one was listed on Rule 26, yeah,
(14) absolutely.
(15) A. Osorio.
(16) Q. Osorio. So, you know what, I'm going to take a
(17) step back. I started and I think we kind of veered
(18) off. You're being compensated for your time. Can
(19) you tell us first of all, you already told us when
(20) you first were retained approximately. What type
(21) of compensation were you receiving for being
(22) retained initially?
(23) A. Our rates go up every year. I think the first bill
(24) came, you know, I only started doing substantial
(25) work in January of this year, where the rate became

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(2) 380 an hour. So that's been the billing rate so
(3) far on this project.

(4) MR. REDD: When you say he is compensated.
(5) Of course, we're referring to Affiliated, right,
(6) Counsel?

(7) MR. ZOHAR: Correct.

(8) MR. REDD: All right.

(9) MR. ZOHAR: Thank you.

(10) THE WITNESS: Thank you for that
(11) clarification.

(12) Q. Besides the 380 an hour, do you know if there was
(13) any type of requirement of a initial retainer
(14) payment before work was being done?

(15) A. I don't think there was.

(16) Q. Now, during the course of your retention by defense
(17) counsel in this case, did they provide you with
(18) documentation, photographs, and things for you to
(19) review in your capacity as an engineer and an
(20) expert?

(21) A. Yes.

(22) Q. And can you tell us what the sum amount and type of
(23) documentation that you had received from defense
(24) counsel for your evaluation?

(25) A. Well, I have a list in my report. I mean, you

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know, it started out slowly. How do you want me to answer it? I mean, do you want to talk about each one, each thing I got or --

Q. No, I don't think that's going to be necessary. I'll go down the list just to make sure we're on the same page.

A. I mean, there was a list that was part of my report, and then there was a request, you know, about a week ago to produce the documents, and I realized that there were some footnotes or references within the body of the report to stuff that might have not been on that list that was at the end the report, but between what's referenced in the body of the report and what's on that list, that pretty much covers everything.

Q. Can you tell us approximately how many hours up to now you have devoted to review, inspect, formulate an opinion, write a report, and any other functions within your capacity and on behalf of defense counsel here, how many total hours have been spent? An approximation is fine.

A. I don't know. That would be referenced in -- the billing records would be the answer to that. Of course, there's some additional work that hasn't

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(2) been billed yet in connection with preparing for
(3) this deposition today.

(4) Q. Despite there not being any retainer in this
(5) relationship that you have with defense counsel, is
(6) there a minimal amount that is required to be
(7) billed despite it not having a retainer, or is it a
(8) contract that is just hourly and nothing more than
(9) that?

(10) MR. REDD: Objection to form. If you
(11) understand it, go ahead. He has been retained, not
(12) necessarily pursuant to an agreement, but he was
(13) retained by my office.

(14) MR. ZOHAR: I just want him to respond,
(15) though, for the record.

(16) A. I wouldn't quite understand what you meant by
(17) minimum. No, we just -- it's hourly, you know,
(18) sometimes you have clients who are sensitive to
(19) what it's adding up to. I don't think we had that
(20) issue. So you'll have budgets and you ask for
(21) more, the budget be increased. I don't think we
(22) ever had a budget in this case. It was just, you
(23) know, we charge in tenth of an hour increments, and
(24) usually on a monthly basis. If nothing happens for
(25) a month or two, we wait until we do some, you know,

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(2) more work accumulates and send another bill out.

(3) That's how it works.

(4) Q. Is the hourly fee the same for your deposition here

(5) today?

(6) A. Yes.

(7) Q. Is the hourly fee the same for inspections?

(8) A. Yes.

(9) Q. Does the time used for inspection also include any

(10) transportation, travel, things of that nature?

(11) A. Yes, we do charge travel time.

(12) Q. At also 380 an hour?

(13) A. Yes.

(14) Q. I'm looking at some of the items that have been

(15) listed in cases that were listed as far as

(16) depositions, and that, specifically we'll start off

(17) with Chez versus Jo or J-O. I don't know if it's

(18) Jo-Jo or Jo, just J-O, Realty Corp.

(19) A. Yeah, that's a typo. It should be Jo-Jo. It looks

(20) like the second O is a zero.

(21) Q. Right.

(22) A. Sorry.

(23) Q. Yeah, not a problem. Can you tell us a little bit

(24) about that case, starting off with besides a

(25) deposition, did you conduct other work, such as

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(2) inspect something and write a report?
(3) A. Yeah, I think I did multiple inspections on that
(4) case. It's a premises type case, as you referred
(5) to them, in Newark, New Jersey, and it was typical
(6) of many assignments I get involved in, where
(7) there's at least one inspection, typically just one
(8) inspection, and you read file material. The file
(9) material comes in slowly, because often times your
(10) clients want to do the inspection before
(11) depositions are taken, so they have photos and, you
(12) know, they have an idea of what it looks like, the
(13) scene, dimensions, whatever's of interest. And
(14) ultimately as a defense expert, you get a
(15) plaintiff's expert report, and you write a report
(16) responding to that with your own opinions.
(17) Q. Now, Chez, what kind of premise liability; is this
(18) a trip and fall, stairs, or some other type of
(19) mechanism involved in this accident?
(20) A. That is a fall off of a ladder.
(21) Q. And is that litigation, from what you know, still
(22) ongoing?
(23) A. I haven't been told that it has been resolved, so I
(24) assume it's still ongoing.
(25) Q. Are you planning on testifying in that trial?

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(2) A. That's not my decision.

(3) Q. Have you been contacted to testify?

(4) A. I have not received a trial notice.

(5) Q. Have you had discussions where they were asking you
(6) what your rates were if you were to testify at
(7) trial?

(8) A. No.

(9) Q. And can you just, if you're able to within a
(10) sentence or two, a short understanding for us of
(11) what was the basic issue here with this fall or
(12) this ladder that you found in your opinion.

(13) A. So I'm retained on behalf -- Jo-Jo Realty is the
(14) owner. Or at the time. The property's since been
(15) sold. At the time of the accident Jo-Jo Realty
(16) owned the property. There had been a longstanding
(17) lease of the first floor commercial space to a
(18) co-defendant. The co-defendant had an outdoor,
(19) like a walk-in cooler built, and basically had a
(20) shed structure built around it. The plaintiff
(21) leaned a ladder against the edge --

(22)
(23) (Brief interruption was had in the proceeding)

(24)

(25) Q. And is the fall as a result of some failure dealing

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(2) also with the shed itself?

(3) A. Yeah, it's alleged that the ladder shifted, moved,
(4) because the lower edge of the roof that the top of
(5) the ladder was leaning against broke away, that
(6) caused the accident. That's the essence of the
(7) case.

(8) Q. Looking at Simply Natural Foods, LLC versus Verlan
(9) Fire Insurance. First of all, was there some type
(10) of property damage in this as opposed to bodily
(11) injury?

(12) A. Correct. Yes.

(13) Q. Was it dealing with a fire?

(14) A. It could be business interruption, too. I don't
(15) know all the details. It wasn't a fire. It was
(16) loss of heat in an old warehouse that caused
(17) extensive breaks of the sprinkler system and
(18) therefore alleged, you know, it's damage allegedly
(19) to the product that was being stored in that
(20) warehouse, and I guess potentially -- again, I
(21) don't know all the details, but that's kind of the
(22) essence of it.

(23) Q. Now, DiDonato versus Black & Decker dealt with a
(24) table-top saw?

(25) A. No. Wrong guess.

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(2) Q. Oh, okay. Offer.

(3) A. You want me to tell you what it involved, okay.

(4) Q. Yes.

(5) A. A polishing machine. A corded electric polisher
(6) used in an auto body shop.

(7) Q. And what was your findings with regards to DiDonato
(8) based on your inspection and involvement?

(9) A. You don't want to know about the alleged accident?

(10) Q. No, I'm familiar with the accident. I just wanted
(11) to know what your findings were.

(12) A. I didn't find anything wrong with the product.

(13) Q. Okay. Mendoza versus Cosmetics & Perfume Filling &
(14) Packaging, what was the reason that you were
(15) retained for that case?

(16) A. That doesn't seem like too long ago, but it does
(17) seem long ago. That's a garage door, like a
(18) loading, at a loading dock, where I think the door
(19) fell and injured the plaintiff. I can't recall
(20) exactly what my findings were in that one.

(21) Q. Did you find any fault to the garage door itself?

(22) A. I just don't remember what my opinions were.

(23) Q. Would that be something you have maintained in the
(24) regular course of business?

(25) A. Yes.

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(1) Q. All right. Going down to Osorio versus The Home
(2) Depot, and this I believe was the table-top saw,
(3) correct?
(4)

(5) A. I'm just drawing a blank on what that one's about.
(6) It could be a saw. I have a pretty good memory of
(7) all the other ones, but that one --

(8) Q. That was a federal case, correct?

(9) A. I don't remember.

(10) Q. And is that matter resolved?

(11) A. I don't know.

(12) Q. Were you retained by defense counsel in that case?

(13) A. I believe so.

(14) Q. And did you conduct an inspection, review
(15) documents, and write a report with your opinions?

(16) A. Again, I don't remember what that case is about,
(17) but I'm guessing I did not do an inspection, but I
(18) reviewed documents and prepared a report. I don't
(19) think I would have been deposed unless I prepared a
(20) report.

(21) Q. Just to refresh your recollection, it's a United
(22) States District Court for the District of
(23) Massachusetts case, and it was actually Carlos
(24) Osorio versus One World Technologies, Inc. or Ryobi
(25) and Home Depot. Those were the defendants. Does

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(2) that refresh your recollection?

(3) A. The date on there is June 10th of 2020. The case
(4) you just cited is like years ago. Not two years
(5) ago, or a year and a half ago, two years ago. I
(6) think the one you're thinking is like quite a while
(7) back and I think -- I don't know. I certainly
(8) wasn't involved in that one.

(9) Q. Can you tell us on Osorio what was involved in that
(10) accident?

(11) A. I'm sorry, but I can't recall.

(12) Q. I'm just going to assume -- I don't mean to be
(13) offensive. Do you have any memory problems? Just
(14) because it's two years go, maybe less, or maybe
(15) just slightly more?

(16) MR. REDD: Counsel, that's inappropriate.

(17) THE WITNESS: I'm not offended. It's not
(18) selective memory. I swore. I swear, okay?

(19) MR. ZOHAR: No, that's okay.

(20) THE WITNESS: I just don't remember.

(21) MR. ZOHAR: That's fine.

(22) MR. REDD: Hold on. If you don't remember,
(23) you don't remember. That's it, okay? Move on.

(24) He's answered the question.

(25) Q. You also have here Kool Vent Mechanical Services

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(1) GEORGE PFREUNDSCHUH
(2) versus Edgewood Properties. What did that case
(3) involve?
(4) **A. That's one where I was the plaintiff's expert.**
(5) **Q.** And what does it specifically involve, that case?
(6) Is it a bodily injury claim, is it a property
(7) claim?
(8) **A. Construction defect claim. Fire damper/ceiling**
(9) **radiation dampers, that's what it's all about.**
(10) **Allegedly improperly installed, improperly**
(11) **selected, et cetera.**
(12) **Q.** All right. And when you say and you represent the
(13) plaintiff, there are two companies here that are
(14) basically suing each other. Would it be correct to
(15) say you represented Kool Vent Mechanical Services?
(16) **A. Yes.**
(17) **Q.** Okay. You had also a trial recently. Davis versus
(18) JV Manufacturing.
(19) **A. I did.**
(20) **Q.** Okay. And what court was that in?
(21) **A. That was state court of New York. Goshen. Orange**
(22) **County.**
(23) **Q.** And was that the only date that we have for the
(24) 5-13 of '22, was that the only date of your
(25) testimony?

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(2) A. I don't think that's -- Oh, gosh! Is that the date
(3) I testified? It might be the day I testified. I
(4) guess that's usually how it works. That's the one
(5) where in the answers we provided I was in that
(6) courtroom on two prior days. Is the 13th a
(7) Thursday or a Friday? I actually gave testimony on
(8) two different days, so -- I don't know, do you want
(9) to hear about this?

(10) MR. REDD: Let's wait for a question. Ask
(11) a question and we'll get an answer.

(12) Q. I think I asked, but what does this case involve;
(13) is this a bodily injury claim, or is this some type
(14) of, you know, property claim?

(15) A. Bodily injury.

(16) Q. And what was the mechanism of injury?

(17) A. What do you mean by that?

(18) Q. Was there some type of device involved in this
(19) injury, or was this a trip and fall or something
(20) other?

(21) A. Yes, it involved a baling machine.

(22) Q. What were the injuries involved, if you recall?

(23) A. Lower body.

(24) Q. Any type of amputation?

(25) A. No amputation.

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(2) Q. And in that case did you represent or were you
(3) retained by defendant JV Manufacturing, Inc.?

(4) A. I was.

(5) Q. Did you inspect the baling machine?

(6) A. I did.

(7) Q. And did you write a report with regards to your
(8) inspection and what your opinion was?

(9) A. I did. There were other inspections, too, but I
(10) wrote a report.

(11) Q. And when you say other inspections, multiple of the
(12) same device or something other?

(13) A. Something else.

(14) Q. What were the other inspections of if not the
(15) baling machine?

(16) A. Well, there was a trip to Arkansas where JD
(17) Manufacturing is located, where we did a test on a
(18) different baler, and then there was a trip to
(19) Houston, Texas to look at a different -- another
(20) different baler that the plaintiff reportedly
(21) operated within the same facility.

(22) Q. Do you know what the outcome of that trial was?

(23) A. It was a bifurcated trial. There was a jury
(24) verdict on liability. There is a JNOV that's
(25) pending. That's all I know.

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(1) GEORGE PFREUNDSCHUH

(2) Q. And do you know what the liability verdict was?

(3) A. It was in favor of plaintiff.

(4) Q. Now, a couple items that were in your file with
(5) regards to this and for which there was a
(6) disclosure a couple days ago, one of the items that
(7) was there was a two-page document from New York
(8) Presbyterian - Queens. Do you recall that
(9) document?

(10) A. I do.

(11) Q. Do you recall what specifically that document was?

(12) A. I could dig it up if you want.

(13) Q. I'll help you. Just if you remember.

(14) MR. REDD: Just answer from memory. We're
(15) not looking at documents right now, unless there's
(16) a specific request, and when you have it identified
(17) and marked, then we'll talk about it.

(18) Q. So the New York Presbyterian - Queens surgical
(19) pathology report that was within your file notes
(20) what they have under gross description, basically
(21) clinical description of what the amputation was.
(22) Do you recall that specific document?

(23) A. I recall the document. I don't recall the
(24) specifics in the document.

(25) Q. At any point did you put down what you felt was a

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(2) measured amount of arm that had got into the
(3) grinder based upon this document?

(4) A. No.

(5) Q. Had you ever had a discussion with Dr. Roger, who
(6) had conducted the actual amputation?

(7) A. No.

(8) MR. REDD: Objection. He wouldn't have the
(9) ability to speak to the doctor unless you gave him
(10) authorization where he could speak to a treating
(11) doctor. The question's inappropriate. Objection.

(12) Q. And by looking at what a gross description, with
(13) some measurements of pieces of tissue and
(14) describing also the metallic screw, did that in any
(15) way assist you in a determination of how far the
(16) arm was within the machine?

(17) A. No, I did not rely on that to reach any conclusion
(18) in that regard.

(19) Q. Just one second. Let me just see if I can get a
(20) document here.

(21) THE WITNESS: Would now be a good time for
(22) a five-minute break? We've been going for three
(23) hours, right?

(24) MR. ZOHAR: Do you want to do it a little
(25) bit more than five minutes? Maybe make it fifteen,

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(1) **GEORGE PFREUNDSCHUH**

(2) **twenty minutes.**

(3)

(4) (Short break was taken)

(5)

(6) **MR. ZOHAR:** I'm just going to share screen
(7) with a document and I'm just going to have some
(8) questions. We'll mark this as Plaintiff's Exhibit
(9) 1 for today.

(10) Q. All right. So when I have any of the things that
(11) I'm going to share screen with, I want you to
(12) understand that you have control over this in the
(13) sense that if you want something enlarged, reduced,
(14) page up or page down, I will do that as necessary
(15) for you during the course of examination, okay?

(16) A. Okay.

(17) Q. But first of all, just looking at the first page of
(18) this, is that visible to you?

(19) A. Yes.

(20) **MR. ZOHAR:** Okay. I will have all this
(21) emailed after the fact. I take it, Deanna, we have
(22) your email address in the chat box?

(23) **COURT REPORTER:** Yes.

(24) Q. So as you look at this document, and it has 1 of 3,
(25) 2 of 3 and 3 of 3 pages, is any of this that you

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(2) have here in your writing?

(3) A. All of it.

(4) Q. And do you see this where it says Mike Hess for
(5) Carmen?

(6) A. Yes.

(7) Q. Okay. Who is Mike Hess?

(8) A. As I understand it, another attorney in Carmen's
(9) office at the time.

(10) MR. REDD: By Counsel, yeah, Mike Hess is
(11) one of my attorneys.

(12) Q. The document that we have here, first of all, and I
(13) just showed you the first page, so I'm going to go
(14) to the second page also. Is everything on the
(15) second page in your handwriting?

(16) A. Yes.

(17) Q. Okay. I'm going to go to the third page. Is
(18) everything in the third page in your handwriting?

(19) A. Yes.

(20) Q. All right. Now, taking a look at this document, it
(21) has a date to the top left. Can you tell us what
(22) date that is.

(23) A. January 10, 2022.

(24) Q. All right. Did you have more than one inspection
(25) of the subject machine?

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(2) A. No.

(3) Q. Was this the only inspection that you conducted of
(4) this machine?

(5) A. Yes.

(6) Q. And are these notes that you had produced on the
(7) date January 10th of 2022?

(8) A. Yes.

(9) Q. All right.

(10) MR. REDD: Just so we're clear on the
(11) record, when you say the machine, the portions of
(12) the machine that were available and not taken away
(13) at the scene by the ambulance and fire people,
(14) right?

(15) MR. ZOHAR: Absolutely.

(16) A. Well, to be accurate, the worm was taken away and
(17) then returned, but the rest of it, who knows where
(18) it is.

(19) MR. REDD: Thank you.

(20) Q. Now, there's no bullet points here, but I'm going
(21) to go -- obviously you just put the heading, we all
(22) know what it is, that it's an inspection of and
(23) where. This first, we'll call it three line item
(24) that starts with CFI under Mike Hess for Carmen,
(25) would that basically just be in essence a quick

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(1) GEORGE PFREUNDSCHUH

(2) chain of custody or something other?

(3) A. Yeah, it's basically, a common speaking, a chain of
(4) custody, yes.

(5) Q. Did you have any documentation with regards to the
(6) chain of custody what were provided to you in any
(7) manner?

(8) MR. REDD: Objection.

(9) A. I think I might have taken some photographs of
(10) chain of custody documents that were there. I
(11) don't remember if it was just for the worm or
(12) whether it was both.

(13) Q. Did you have any discussion with anybody at the
(14) location where this inspection was conducted, this
(15) physical inspection of the meat grinder power unit,
(16) and did you have a conversation with any of the
(17) individuals employed there with regards to their
(18) handling of the subject power unit?

(19) MR. REDD: Objection to form. Go ahead.

(20) A. I may have. I don't recall. I probably was
(21) talking to Robert from LGI. Again, I don't recall
(22) specifically who I got this information from, but
(23) obviously I got it while I was there.

(24) Q. The line under that starts with 14 inch wide, is
(25) that the measurement of the power unit box itself

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(2) or does that also include the leggings or mounts?
(3) A. I missed the very last part. Does it also include
(4) what?
(5) Q. Those mounts, leggings, four legs.
(6) A. I think it includes the four legs. I'm not sure if
(7) height-wise I'm including the little -- in addition
(8) to the legs on the bottom, there's two little
(9) protrusions on the top for supporting the back end
(10) of the tray, the meat tray. I can't remember if I
(11) included those or not. If I looked in my photos,
(12) I'd probably have the answer.
(13) Q. All the information with regards to Pro-Cut, the
(14) line underneath it, 220 vac and manufactured, all
(15) those, were those and that information taken down
(16) by you after observing the unit or something else?
(17) A. Yeah, after observing the unit.
(18) Q. Okay. And that information would have been on the
(19) unit itself?
(20) A. Yes.
(21) Q. Under where it says what you note warning labels on
(22) the sides of the enclosure, underneath, obviously
(23) there was no way to employ the machine itself by
(24) energizing it. You didn't have a plug that you
(25) could use; is that what you're basically stating?

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(2) A. Yeah, the machine had a plug, but they didn't have
(3) the right power source to provide to connect to the
(4) machine's plug to allow us to energize it.

(5) Q. Is that something that they had mentioned to you or
(6) there was none available that you could see in the
(7) area where the inspection was being conducted?

(8) A. No. I think somebody from TFI said that.

(9) Q. I'm going to go to the second page, and let me just
(10) see if I can rotate the view. All right. I've
(11) just rotated the view for you. Can you tell us a
(12) little bit about the measurements. And first of
(13) all, what is depicted in this photograph, the
(14) drawing?

(15) A. That's the worm, or auger, that would be inside the
(16) headstock.

(17) Q. And can you tell us the significance of your
(18) notation with regards to some aspects of that
(19) auger. You have notations here, so I'm just asking
(20) you what --

(21) A. Yeah, it's just some basic measurements and noting
(22) where I observed some cut marks.

(23) Q. Okay. So let's start off with non-numeric. And I
(24) do have a picture that I will -- let's see if I can
(25) have something. Those cuts that you note on the

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(2) auger itself, is that something that when the
(3) machine is first taken out of a box as brand new,
(4) would those have been there?

(5) A. No.

(6) Q. Did you examine those to determine what the reason
(7) they were there for?

(8) A. Well, I could speculate, but --

(9) MR. REDD: Don't speculate.

(10) THE WITNESS: Exactly.

(11) Q. Did you speak to anyone at Karzinka or review any
(12) documents where someone made mention of why there
(13) were cuts on that auger?

(14) MR. REDD: Okay. Note my objection to
(15) form. Karzinka was represented by counsel. That
(16) would be completely improper for him to be speaking
(17) to anybody from Karzinka at that point in time.
(18) Objection to form.

(19) MR. EVANS: Note my objection as well.

(20) Q. Did you speak to anyone who had made mention to why
(21) those cuts were there on the auger?

(22) A. I may have, you know, there might have been some
(23) small talk between the experts at the inspection,
(24) but, I don't recall any specifics.

(25) Q. Now, when this auger is within the body of the

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(2) unit, is there any give from the edging of that
(3) screw to the cavity in which it is placed?

(4) A. Can you explain it better.

(5) Q. The edging of these screws is what I'm talking
(6) about. Do you know what the distance, if any,
(7) measurable distance, there is between these edges
(8) that I'm putting here, you had numbered 1, 2, 3 and
(9) 4, if there's any appreciable distance between that
(10) point and the cavity of where the auger fits in
(11) when it is employed in that unit, that meat
(12) grinder?

(13) A. In the radial direction, you want to know how
(14) much --

(15) Q. Correct.

(16) A. -- clearance there is between the two --

(17) Q. Exactly.

(18) A. The outer periphery of the vein, that spiral outer
(19) path, and the nearest surface of the interior of
(20) the headstock. I don't know -- I remember seeing
(21) something in the manual that spoke to if there was
(22) wear, you know, beyond a certain clearance, you
(23) should replace that, but I don't know, you know,
(24) what the manufacturing tolerances or what, you
(25) know, the nominal clearance would be from the

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(2) factory.
(3) Q. Would the distance or clearance if any that is
(4) there, would that have some type of impact with
(5) regards to friction?
(6) A. Well, friction implies rubbing. I think there's
(7) clearance to begin with. It's not supposed to be
(8) rubbing. I mean, I suppose there might be a little
(9) bit of rubbing if things aren't perfectly centered
(10) or -- I don't know how to answer that question.
(11) Q. That's alright. So when you went there that day
(12) for the inspection, for which you took these notes
(13) down, there was an attorney that was from the
(14) office that had retained you present?
(15) A. As I understand it, Mike Hess is an attorney. He
(16) was there instead of Carmen, in place of Carmen.
(17) Q. And there were other experts from other parties
(18) there?
(19) A. Yes. Mr. Crawford was there, and I believe your
(20) expert was there.
(21) Q. Right. When you came to that inspection, did you
(22) have anybody from Affiliated come with you or did
(23) you have anyone else that went to that location
(24) bring any type of devices, measuring, anything of
(25) that nature to assist you in your inspection?

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(2) A. I didn't have anybody from Affiliated come with me.
(3) It was just myself.

(4) Q. Did you bring any type of devices, measuring or
(5) otherwise, to assist you in conducting the
(6) inspection of the power unit of the subject meat
(7) grinder in this case?

(8) A. Yes.

(9) Q. Can you tell me what type of devices, measuring or
(10) otherwise, tools that you brought to assist you in
(11) your inspection of this meat grinder.

(12) A. Well, I had my camera bag. I usually carry with me
(13) different tape measures. I might have brought a
(14) dial caliper with me, you know, various odds and
(15) ends I keep with me. Flashlights.

(16) Q. All right. So what I have down here is you stated
(17) a camera bag, tape measure, dial caliper and
(18) flashlight, but you said and other devices. So
(19) what other devices did you bring?

(20) A. Well, I mean, I could tell you what I normally keep
(21) in my camera bag. I can't tell you -- sometimes I
(22) customize. I take stuff out, I add things. I
(23) usually have my camera bag and my Affiliated
(24) backpack where I stuff things in. I'll have a
(25) clipboard. My clipboard will have some steel

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rulers. It's got a carpenter square, a little metal square. I mean, I could go -- I can tell you what I typically have and what I think I might have brought. I mean, if we look in my photos, I can tell you for sure what I have with me because it's in the photo.

Q. We'll look at some of the photographs. You said steel rulers?

A. Steel rule, yeah. R-U-L-E, but short for ruler, yeah.

Q. And carpenter square, we're talking about some type of measuring device that has a 90 degree angle on the most part?

A. Yes.

Q. Anything else that you recall specifically?

A. Well, I think in the photos there's something called a pocket rod, which is like a type of measuring tape. I know I was using that measuring device that day. It's probably the one that I use the most. I think it's in the most photos.

Q. Did you bring any type of calipers where you could measure? We're talking the flat type of calipers that may come in.

A. I think I said dial calipers before. I probably

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(2) had them with me. I'm not 100% sure.

(3) Q. Can you describe the dial caliper that you had
(4) taken.

(5) A. Well, the ones I have, I think it's Starett brand.
(6) S-T-A-R-E-T-T. It measures up to six inches. It's
(7) got two, it can measure the outside diameter of
(8) something, it can also measure inside diameter.

(9) Q. Are we talking about two arms that are angulated,
(10) semi rounded fashion towards the ending tips that
(11) can be opened and closed in a sense?

(12) A. It's not one of those calipers. They actually, you
(13) know, it basically slides. It's like two prongs,
(14) one is fixed and the other one slides apart.
(15) There's a dial that will give you the last two
(16) digits. It gives you a decimal readout, like
(17) number of inches, the three decimals.

(18) Q. Besides the things that you had stated here, did
(19) you bring any type of laser, sightings laser,
(20) measuring devices, things of that nature with you
(21) that day?

(22) A. If I brought my camera bag, which I think I did, I
(23) usually have one in my camera bag. Did I use it?
(24) I doubt I used it.

(25) Q. And how long did that inspection entail in total

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(2) from when you arrived until you had left?

(3) A. If you don't mind scrolling to the top page, it
(4) might be on there. Sometimes I make a notation.
(5) As you're rotating, I don't see it on there. What
(6) I remember, it was a relatively short inspection,
(7) you know, maybe it was an hour altogether or, you
(8) know, about that. Maybe a little bit longer, you
(9) know, you've got different people involved, so
(10) we're all taking turns.

(11) Q. And so getting back to page 2 of 3, in your
(12) professional opinion why would there be these
(13) cutouts; would that have to do with liquid, blood,
(14) things of that nature, or for some other reason?

(15) A. I could tell you those cut marks weren't on the
(16) exemplar worm, so it's not -- they're not made in
(17) the factory. It's not an intentional feature. So
(18) I mean, I'd be speculating, but I would think it
(19) would have something to do with the events that
(20) transpired shortly after the accident, and maybe
(21) someone from the FDNY could tell you more or
(22) someone at the hospital, but I don't know.

(23) Q. Were you able to, upon your observation of that
(24) auger, determine if there was a recent cut which
(25) actually might have been from the fire department

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(2) for all we know; were you able to determine by
(3) visualizing it if it had been there for a while?
(4) A. No.
(5) Q. Okay. Now, you took a few measurements. We're
(6) going to start off with the right most measurement,
(7) and you put what looks like cut, is that?
(8) A. Yes.
(9) Q. And this specific measurement of 3 5/8, is that the
(10) same measurement as what you call these veins, or
(11) is this a larger measurement than those veins?
(12) A. It could be larger, it could be the same. I don't
(13) know.
(14) Q. Does it make any difference with regards to the
(15) rotation of that device if this one measurement of
(16) 3 5/8 would be greater than the auger screws or the
(17) veins as you describe them?
(18) A. I would think from a design standpoint, the way it
(19) gets assembled, it's probably about the same as the
(20) diameter of the veins.
(21) Q. Do you know that for a fact?
(22) A. No, I don't.
(23) Q. Okay. Now, you took measurements. We'll just go
(24) down to the bottom, and this looks like a
(25) measurement of the auger from one end of it to the

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(2) other, to include these items that have nothing to
(3) do necessarily with the actual touching of the meat
(4) portion, so not just this rod with these veins, but
(5) also these exterior side pieces. What is the
(6) significance of this measurement?
(7) A. It's just for reference. General size of the part,
(8) that's all.
(9) Q. You have two measurements, and can you tell us why
(10) there's two measurements to this?
(11) A. This supplements. I mean, I took photos, too, and
(12) there are photos with a ruler in the photos. So,
(13) you know, this is complementary to the measurements
(14) that the photos provide and vice-versa. So this is
(15) not by any means meant to be a complete or super
(16) accurate documentation of the size or features of
(17) this part.
(18) Q. I'm just wondering why there's two measurements
(19) down here as opposed to a finite measurement of
(20) what the actual length of this auger is.
(21) A. Because I had to approximate because my, for
(22) example, if I had my dial caliper, that only
(23) measures up to like six, six and a half inches. So
(24) I didn't have something of the size that could get
(25) an accurate measurement of that.

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(1) Q. What would be the type of measuring device that
(2) would have assisted you in getting that accurate
(3) measurement?
(4)

(5) A. There are calipers that are larger. We have some
(6) in our shop here.

(7) Q. Did you ever ask to have a measurement of the
(8) length of that auger at any point after this
(9) inspection, just to make sure that your number is
(10) going to be finite and exacting?

(11) A. No. I didn't see the need to.

(12) Q. You also took a measurement towards the left side
(13) which says 1 3/4, and it looks like it's out from
(14) the edge of what we're calling the rod portion
(15) where it has the veins on, and the little nub that
(16) connects to another portion of the machine. What
(17) is the significance of this measurement?

(18) A. It's just another reference measurement. That's
(19) all it is.

(20) Q. Is there any measurements that are of significance
(21) to you that you had measured at some point in using
(22) your calculations?

(23) A. What calculation are you referring to?

(24) Q. Calculations let's say of rotation of this device.

(25) A. I didn't rely on measurements like that you're

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seeing here for determining the -- like 3 rotations per second, is that what you're getting to?

Q. I mean, that's part of it. I think that the rotation of this device is of some significance in this lawsuit, at the very least, and I'm just wondering why you --

A. Well, so look at the numbers I applied. 1, 2, 3, 4, you see that at the top?

Q. Yes.

A. There is a photograph that I use in conjunction with, you know, this image that I made, this sketch, where I -- I don't think I specifically put the number in my report, but in writing my report, I was mindful of the distance between 1 and 2, and that's captured in one of my photographs.

Q. Did you ever take a measurement what the distance was between each one of these edges along the auger, the veins where you put numbers 1 through 4, of what the distance was between each one of them?

A. Well, I think I have photographs that can allow me to approximate. No, I don't have like -- I don't have very accurate measurements. I didn't see the need for that.

Q. Okay. I'm going to show you what's marked as 3 of

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(2) 3. So this page also that you've already stated
(3) was in your handwriting, is this the bottom of the
(4) specific unit, hand drawn, obviously not to scale,
(5) but as closely approximate under the circumstances,
(6) would that be a correct --

(7) A. Yes.

(8) Q. And we'll just kind of take a few things. There
(9) are these four items towards the corners, one of
(10) them that states, Missing foot pad. Are these what
(11) we were discussing earlier that are the footings of
(12) this unit as it sits on top of a counter?

(13) A. Yes.

(14) Q. Did you take any measurement of the specific foot
(15) pad that was on the other three and was missing
(16) from the fourth?

(17) A. Maybe I have a photograph with a ruler next to it.
(18) I don't know. I'd have to look.

(19) Q. And I'm talking about measurement not of the width
(20) circumference, but the thickness of the pad that
(21) would actually be supporting the unit from the
(22) table top, and then basically sitting on top of
(23) that section. Not the one that goes around the
(24) edges and around that leg, but what the thickness
(25) of that specific foot pad might have been.

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(2) A. I don't recall any measurement like that.

(3) Q. Now, there's a couple of other items here that are
(4) in the center. You've made some notations. First
(5) of all, to the left of the machine, would that be
(6) where meat, after it was ground, would exit the
(7) machine?

(8) A. That location where your cursor is, no,

(9) Q. Yes. Okay. Where would the meat actually come out
(10) of the machine if we're standing on top of, you
(11) know, in its proper manner standing on a table top,
(12) as we look at this unit right here?

(13) A. This is like the view as if you're like underneath
(14) the glass table that's supporting it.

(15) Q. Correct.

(16) A. So where your cursor is now is where the headstock
(17) would be. And we were looking at dimensions
(18) before, the thing's over a foot long.

(19) Q. Right. That's what I was talking about. This is
(20) where the meat would come out, to the left of this
(21) photograph?

(22) A. Well, that's where the auger would be. And
(23) contained within the headstock and, yes, you know,
(24) so it gets fed into the headstock. It's some
(25) distance above and then, you know, makes a

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right-hand turn, goes from a vertical movement down to a horizontal movement, you know, being conveyed by the veins of the worm, and then eventually gets pushed past the rotating blade, through the perforated plate, and then finally the meat comes out.

Q. Okay. Have you ever inspected and had involvement with this type of meat grinder machine prior to the inspection that you did in this case?

MR. REDD: Objection to form. Go ahead.

A. You're asking whether I had ever inspected another Pro-Cut KG-32?

Q. A meat grinder of similar, not even just Pro-Cut, but a Pro-Cut or similar device?

A. I'd inspected a meat grinder, but it wasn't similar to this.

Q. And that meat grinder, was that a small unit or an industrial unit, much larger?

A. It was like a small commercial unit, and a prosumer type of product.

Q. Was it a smaller unit than the one that is at issue here?

A. It was smaller, yes.

Q. And was that a commercial level meat grinder or a

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(2) unit for a house?

(3) A. It kind of bridged the gap. It could be used in
(4) commercial environments or it could be purchased by
(5) a homeowner or hunter that, you know, wanted some
(6) commercial grade.

(7) Q. That other unit that you had inspected, do you
(8) recall approximately when that occurred?

(9) A. When what occurred?

(10) Q. Not the one at issue here, but the prior.

(11) A. The prior inspection?

(12) Q. Yes.

(13) A. I think it was like the fall of 2019. Thereabouts,
(14) plus or minus.

(15) Q. Did that go into litigation?

(16) A. It did.

(17) Q. And did you testify at a deposition or a trial with
(18) that case?

(19) A. No.

(20) Q. Did you write a report with regards to your
(21) inspection and opinion?

(22) A. There are multiple affidavits. I can't recall a
(23) report. I may or may not have done a report.

(24) Q. Do you recall what the name of that litigation was?

(25) A. Plaintiff's name is Sanchez.

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(2) Q. And the defendant's?

(3) A. It's Weston Products.

(4) Q. Is that W-E-S-T-I-N?

(5) A. I think it's an O-N. W-E-S-T-O-N.

(6) Q. And what court was that in, state or federal?

(7) A. I think it's federal.

(8) Q. Do you remember what district or what state it was
(9) within?

(10) A. It's New York.

(11) Q. Do you know if that case is resolved at this point?

(12) A. I don't think it is.

(13) Q. Now, is that unit similar in functioning and
(14) capacity as the one that we have here, because you
(15) said it kind of bridges between home use and
(16) professional use?

(17) A. Yeah. I mean, the horsepower, it's like
(18) three-quarter or 1 horse. It might be
(19) three-quarter horsepower. This one's a 3
(20) horsepower, so the horsepower is substantially
(21) less. It's not as heavy. Smaller footprint. The
(22) way the tray attaches is different. The way the
(23) guarding is different.

(24) Q. And in that case were you retained by the
(25) defendant?

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(2) A. Yes.

(3) Q. Did you find anything wrong with the meat grinder
(4) in the Sanchez versus Weston Products case?

(5) A. No.

(6) Q. Now, looking at this photograph, there seems to be
(7) notations of threaded studs through that you noted.
(8) Do you know what the function of those studs are,
(9) or the screws that go through those holes toward
(10) the bottom?

(11) A. Those studs and screws are two different things, so
(12) your question's defective. But, no, I don't know
(13) what the function are.

(14) Q. On the most part, would that be the secure parts of
(15) the inner workings of the power unit in place?

(16) A. That would be a likely explanation. I haven't
(17) taken it apart, so I don't know.

(18) Q. The two large circles, more towards the middle that
(19) are side by side in this photograph, were those the
(20) vents on the bottom of the machine?

(21) A. I believe they were.

(22) Q. And was that an access point for the interior?

(23) A. We could look at our -- it's up to you, but I would
(24) have to look at my photos. As I recall, there were
(25) screens, like fine mesh screens, at those two

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vents.

Q. Now, you also make a notation to the right side of those two holes, and you put what looks like nut and tight. Would that also be the type of screw or bolt that is securing the interior part to the shell of this power unit?

A. Yeah. I mean, it looked like, I believe that's another threaded stud that happened to have a nut where the nut was tight, whereas the other three that I noted that you just asked about had nuts missing.

Q. Were any of them loose of the other three that you said did not have nuts?

A. No. There are no nuts. It says without. W/O is my notation for without.

Q. Right. That's what I meant, but I'm saying were any of those loose in any manner?

A. If they're not there, that's not a valid question. They're not there. If you have a nut there, then it's a logical question are they loose or not.

Q. I have no idea if there's threading on these exit holes. So it can have no nut and still be very tight. So I just want to find out.

A. I apologize. I misunderstood your question.

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(2) Q. That's okay. I want you to correct me, just so we
(3) get it clear.

(4) MR. REDD: Are we talking about nuts, are
(5) we talking about studs or both of these things?

(6) A. I think the entire, like are you suggesting that
(7) the bottom is a panel and that if enough things are
(8) missing, enough fasteners are missing or loose,
(9) that the panel was loose, is that what you're
(10) asking?

(11) Q. Not at all. I'm just asking were they loose?

(12) MR. REDD: Objection to form.

(13) A. So in other words, when I was turned sideways, if I
(14) took my two little fingertips, and this is the
(15) threaded stud, (Indicating), if I went up and
(16) grabbed it, could I wiggle it, is that what you're
(17) asking?

(18) Q. Yeah, pretty much.

(19) A. I don't remember one way or the other.

(20) Q. And we'll just be done here in a second. Did any
(21) of these have anything to do with the functioning,
(22) turning on, turning off, or processing the meat
(23) from your opinion to this point?

(24) A. It just caught my -- ostensibly, no. It just
(25) suggested that somebody was tampering with this

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(1) **GEORGE PFREUNDSCHUH**

(2) **thing. And why, I don't know. I didn't know at**
(3) **the time. I was just getting information.**

(4) **Q. Absolutely. You're making notations on this, and**
(5) **this may likely have nothing to do with what we're**
(6) **here for, but when you're saying the word**
(7) **tampering, is there any indication that any of the**
(8) **things that you had seen on the bottom of this**
(9) **unit, why would you have an indication that**
(10) **tampering occurred on the bottom?**

(11) **A. Because there's missing hardware.**

(12) **Q. Have you seen a machine that's similar to this in**
(13) **fact cage unit?**

(14) **A. Well, we have the exemplar in our office.**

(15) **Q. And does that unit have nuts where the three holes**
(16) **that are noted here do not?**

(17) **A. You know what, I never checked.**

(18) **Q. There seems to be one other item here to the left.**
(19) **You can see where my cursor is. You didn't have a**
(20) **notation, but I was just wondering what that was.**

(21) **A. I don't know off the top of my head.**

(22) **Q. I have some photographs. We'll mark this as**
(23) **Plaintiff's Exhibit 2, just because you mentioned**
(24) **it, and we'll just go over this quickly. You had**
(25) **mentioned earlier that you brought some tape**

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(2) measures and you had measurements of the auger
(3) itself. Is this one of the pictures that you were
(4) talking about?

(5) A. Yeah, I think it's one of my pictures. The file
(6) name in the upper left is definitely an Affiliated
(7) file name that we assign to inspection photos. We
(8) start with our file number, so I see W-6196. So
(9) the tape measure with the white running
(10) horizontally is my tape measure. I call, it's a
(11) pocket rod, and the other ones were supplied by the
(12) lab or somebody else.

(13) Q. And looking at this, what's been marked as
(14) Plaintiff's Exhibit 2, do you see where my cursor,
(15) are those the cuts that you were referring to that
(16) you felt may have been caught possibly by the
(17) NYFD?

(18) A. Yes.

(19) Q. If there's any comment that you want to make with
(20) regard to this, feel free. Otherwise I'll go to
(21) the next photograph.

(22) A. No comment.

(23) Q. All right. This is going to be Plaintiff's Exhibit
(24) 3. So do you see this photograph?

(25) A. I do.

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GEORGE PFREUNDSCHUH

- (1) Q. Earlier you said that you had other measuring
(2) devices. Besides the tape measure that you just,
(3) on the other photograph said was provided by LGI,
(4) this other measuring device seen, is that yours?
(5) A. Yeah, it looks like mine. So I guess I had that
(6) with me.
(7) Q. And what can you describe that measuring device as.
(8) A. It's kind of an old fashioned caliper.
(9) Q. And what is the maximum measurement for this one
(10) caliper right here that you have in the photograph?
(11) A. What do you mean by maximum?
(12) Q. There's a limit for what it could measure, I take
(13) it, as if you spread it to side to side, and you're
(14) measuring from -- and you correct me if I'm
(15) mistaken in any manner. These edges are what the
(16) measurement is. Therefore, the unit itself opens
(17) up and has some limitations, I take it. It can't
(18) measure something five feet long, I take it?
(19) A. Yes, you're correct.
(20) Q. What is the maximum measurement ability of this one
(21) device, and what would you call this device?
(22) A. Well, I don't know the answer to that question.
(23) It's like an old fashion caliper. I suppose it can
(24) probably go at least two, three times the space
(25)

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(2) that it's, you know, right now it's measuring the
(3) diameter at that end there, you know, whether it
(4) can do more than a foot or a foot, I doubt it, but
(5) I don't know.

(6) Q. Now, looking at the device itself, and we're
(7) talking about the edge, this nub that is on the
(8) four foot part of this auger as it goes from the
(9) middle of the picture towards the top and out of
(10) frame, this nub, it looks like it has some type of
(11) rust, possibly blood and other things on there.
(12) By looking at this portion of the auger, is there
(13) something that as a professional engineer that you
(14) see that is of significance, if anything, or if at
(15) all?

(16) MR. REDD: Objection to form. Go ahead.

(17) A. Can you put --

(18) Q. I'll enlarge this as you need. I'll do whatever is
(19) necessary.

(20) A. I mean, we talked before about my sketch and where
(21) I noted there was a cut mark. I see the cut mark
(22) here. Is that what you're getting at? I don't
(23) follow.

(24) Q. No. I'm saying, first of all, in your drawing on
(25) this side you had wrote down cut.

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(1) GEORGE PFREUNDSCHUH

(2) A. That's correct.

(3) Q. So does the auger of this machine in a pristine,
(4) out of the box, does it look similar to this or is
(5) there something dissimilar about this edge, if
(6) anything?

(7) A. No, there's definitely something different about
(8) when it first comes from the factory.

(9) Q. Did you ever compare another auger, same unit, same
(10) type of auger, to the one that's pictured here and
(11) was involved in the subject accident?

(12) A. Well, compare's a loaded word. Did I look at
(13) another one as it came right from the factory?
(14) Yes.

(15) Q. Did you take measurements to compare what this nub
(16) that we're talking about is compared to the other
(17) unit that's just out of a box?

(18) A. No, I did not do any kind of detailed dimensional
(19) comparison. It looked similar. They look the
(20) same, for all intents and purposes. Might this one
(21) be a little different because it's been worn?
(22) Conceivably. I didn't study that. I don't know.

(23) Q. All right. I'll go to the next one. This will be
(24) Plaintiff's Exhibit 4. Now, do you see the label
(25) that's on this machine?

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(1) GEORGE PFREUNDSCHUH

(2) A. I do.

(3) Q. And is that the label that was on the subject
(4) machine that you had inspected during that single
(5) visit to inspect the subject meat grinder involved
(6) in this accident?

(7) A. You said the label?

(8) Q. The label on the machine.

(9) A. I see another label in the same photograph, so it's
(10) one of the labels, yes.

(11) Q. Right. One of the warning labels, or the label
(12) that is closest to the on and off switches.

(13) A. Yes.

(14) Q. Would that be accurate?

(15) A. That is accurate.

(16) Q. First of all, do you know if this is the actual
(17) warning label that was there at the time this
(18) accident occurred?

(19) A. Based on everything I know, yes.

(20) Q. Did you ever see any photographs or video that
(21) showed that there is a label at this location at
(22) the time that this subject accident occurred?

(23) MR. REDD: Objection to form.

(24) A. On the day of the accident, a photograph taken on
(25) the day of accident showing this label, is that

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(2) essentially what you're asking me?

(3) Q. Yeah, if you saw a photograph on the date of
(4) accident and it's the exact warning label.

(5) A. No. The only thing I remember seeing is the
(6) photographs taken by Stellar Investigations, I
(7) think about five weeks later.

(8) Q. All right. And this measurement with a tape, is
(9) that your hand?

(10) A. Yes.

(11) Q. Now, your report itself used some photographs;
(12) would that be correct?

(13) A. Yes.

(14) MR. ZOHAR: All right. And I'm just going
(15) to get to the page. You know what, as Plaintiff's
(16) Exhibit 5 we're just going to use the disclosure,
(17) the Rule 26(A) disclosure for the witness today.

(18) Q. All right. I am on page 14 of Plaintiff's Exhibit
(19) 5, which is a 91-page document, and I just want to
(20) take a look and bring attention to page 14 of the
(21) 91. It has two photographic figures, figure 3 and
(22) 4, that are included there, and I am looking right
(23) now and more zoomed in on the top on figure 3. Do
(24) you see that?

(25) A. You're asking me to follow along?

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(1) GEORGE PFREUNDSCHUH
(2) Q. Do you see that photograph there I'm talking about,
(3) figure 3?
(4) MR. REDD: You've got to put it up for him.
(5) MR. ZOHAR: Oh, I'm sorry.
(6) Q. Now do you see the specific page and the figure 3
(7) that I was talking about?
(8) A. I can't see the page number, but I see figure 3.
(9) Thank you.
(10) Q. All right. Page numbers are noted right at the top
(11) here, if you see that. There's 91 pages to this
(12) document.
(13) A. Right. I don't know if there were a couple pages
(14) added to the beginning, but I guess it's
(15) irrelevant. I understand the page numbering that
(16) you're using. It makes sense to me.
(17) Q. But I will do this. It's page 3 of 25.
(18) A. Yeah, okay.
(19) Q. But page 14 because that's the exhibit itself.
(20) A. Yeah, I think for future reference, referring to
(21) the page number of my report is probably more
(22) helpful.
(23) Q. I'll do both, just to make sure we're covering all
(24) bases. I'm just going to enlarge this somewhat.
(25) So this specific photograph that you attached, is

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(1) GEORGE PFREUNDSCHUH

(2) this the actual meat grinder that was involved in
(3) this accident and for which you conducted your
(4) inspection?

(5) MR. REDD: Objection to form. Is it the
(6) power unit?

(7) MR. ZOHAR: Yes. Absolutely.

(8) A. I think in the report I say that I believe it was.
(9) I can't remember what Stellar says, but it looks
(10) like it could be. I mean, I guess if we had a
(11) better quality image, we could look at the Pro-Cut
(12) label, because it looks like there's like a rip or
(13) something in it, and that seems to match the photo
(14) that you previous showed me.

(15) Q. Agreed. I'm going to just go down to figure 4.
(16) And first of all, figure 4 would you agree is not
(17) the subject meat grinder that was involved in this
(18) accident?

(19) A. Yes, we can agree to that.

(20) Q. This photograph of the meat grinder, where was that
(21) taken?

(22) A. It's my understanding it was taken at more or less
(23) the accident location.

(24) Q. And is this the same unit as the one that was
(25) involved - we're talking about model unit, not the

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(1) GEORGE PFREUNDSCHUH
(2) same unit - but the model number, similar unit from
(3) Pro-Cut?
(4) A. No. I think it's one of the smaller ones that you
(5) can get from Pro-Cut.
(6) Q. Do you know what the specific model is of this unit
(7) that you have a photograph included within your
(8) report?
(9) A. No, I do not.
(10) Q. Now, what is the significance of taking a picture
(11) of a unit which you're saying you believe is a
(12) smaller unit, not a similar unit and not an
(13) involved unit in this case?
(14) MR. REDD: Objection to form.
(15) A. Well, you can see the pusher there.
(16) Q. Anything else?
(17) A. You can see a warning label.
(18) Q. Do you know how many horsepower this unit is that
(19) is depicted in figure 4 on this same page?
(20) A. No, I don't.
(21) Q. Do you have an understanding of why there are
(22) additional labels on this unit that are visible to
(23) us from this view?
(24) A. I don't know why the yellow, looks like there's a
(25) caution label. I can't make out the words.

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(1) **GEORGE PFREUNDSCHUH**

(2) Q. I'll enlarge a little bit just to see if it helps,
(3) and I don't believe it does.

(4) **MR. EVANS: I don't think it does.**

(5) **MR. ZOHAR: Yeah, I don't know that it does**
(6) **either. But I tried.**

(7) Q. By looking at this unit also would you agree that
(8) besides the blue Pro-Cut label that's in the middle
(9) of that power unit, the left warning, the one that
(10) we had described on the other unit as being close
(11) to the on/off button, would you agree that there
(12) are two other labels, the yellow label and an
(13) orange smaller label under this warning label that
(14) we had spoken about earlier; do you see those two?

(15) A. I do. I don't see them well at all, but I can make
(16) out, yes, there are two other labels.

(17) Q. That makes two of us. When this photograph was
(18) taken, was there any measurements or close-up
(19) pictures of the labels that were on this power
(20) unit, this uninvolved power unit and meat grinder
(21) from Pro-Cut?

(22) A. I didn't take the photo. I got it from the Stellar
(23) Investigations report.

(24) Q. Now, in your report, page 4 of 25, you had at some
(25) point in the bottom paragraph mentioned the shirt

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(1) GEORGE PFREUNDSCHUH

(2) sleeve as pulled back from the wrist. Do you
(3) recall that, in the last sentence?

(4) A. I recall it. I don't know. Do you want to refer
(5) to it? I recall taking screen shots from the
(6) accident video and making note of his shirt sleeve
(7) at I think two different, two or three different
(8) points in time.

(9) Q. I'll just share so you'll see what I'm talking
(10) about. Right here, it said this is the bottom of 4
(11) of 25, the last paragraph. Were you able to see
(12) the shirt sleeve past this one moment when he put
(13) his arm forward more in pushing the meat into the
(14) neck and eventually into the auger, were you able
(15) to see the shirt sleeve at that point?

(16) A. I don't recall exactly what the video shows in the
(17) next couple seconds after this.

(18) Q. Did you ever recall any photograph that only shows
(19) that shirt sleeve pulled back and staying in that
(20) pulled back position throughout the whole arm
(21) motion as it goes forward and from right to left
(22) and into the neck of where the meat is going down
(23) towards the auger?

(24) MR. REDD: Objection to form. Besides the
(25) two photographs we're looking at here?

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(1) GEORGE PFREUNDSCHUH

(2) Q. Besides this, We're talking about any others that
(3) show that point where he's starting to move his arm
(4) and go towards the neck.

(5) A. I just want to hear the question again.

(6) MR. REDD: Can we get a read-back, please.

(7)

(8) (Previous question was read by the Reporter)

(9)

(10) A. Well, it's a confusing question. I mean, we were
(11) just looking at my report, and I think the report's
(12) got two different points in time where I freeze,
(13) did a freeze frame and then zoomed in, and you can
(14) see the shirt sleeve pulled back. I mean, it's
(15) definitely bunched up a little bit on his triceps
(16) area. I know in my experience, if I had a shirt
(17) sleeve pulled back and then if I dropped my arm
(18) down and my sleeve then dropped because of gravity,
(19) force of gravity, and I pick my arm back up, the
(20) sleeve's not going to magically get bunched back
(21) up, you know, I'm fighting the forces of gravity.
(22) So it is what it is. Does the video show what's
(23) happening at the time of the accident as he's
(24) putting his hand down the throat of the headstock?
(25) No. It is what it is.

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(1) **GEORGE PFREUNDSCHUH**

(2) Q. This is going to be Plaintiff's 7. This is also a
(3) photograph you had taken of the subject machine
(4) involved in the accident?

(5) A. Okay. Looks like it.

(6) Q. And does this have the amount of power that this
(7) machine employs?

(8) A. Yes.

(9) Q. And the horsepower, it would be 3 horsepower?

(10) A. Yes. The 3 HP after the kilowatts and motor power,
(11) yes.

(12) Q. Would 3 horsepower in the general terms of motors
(13) that have a rotation, torque, spin, axle, or in
(14) here, an auger that is spinning and grinding the
(15) meat, is 3 horsepower a large amount of horsepower,
(16) light or any which way you would like to describe
(17) it?

(18) A. In the world of meat grinders, it's a fair amount
(19) of horsepower. They do make ones that are more
(20) powerful.

(21) Q. And what can some of the more powerful meat
(22) grinders be measured in horsepower, from your
(23) experience?

(24) A. I think I've seen a 5 horsepower. There might be
(25) something beyond that.

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(1) **GEORGE PFREUNDSCHUH**

(2) Q. Had you ever seen any of the large industrial meat
(3) grinders that you may actually have to have
(4) somebody crawl in to clean them after they're
(5) employed and process meat, have you ever inspected
(6) any of those types of meat grinders?

(7) A. No, I haven't.

(8) Q. Would those meat grinders be of the range of 5
(9) horsepower or significantly more?

(10) A. Probably significantly more.

(11) Q. And what would be, and I understand it is not
(12) exact, but what would a larger industrial meat
(13) grinder horsepower be?

(14) A. I don't know.

(15) Q. Are we talking more than, you know, 10, 20, 50 or
(16) something over?

(17) A. I don't know.

(18) Q. All right. Plaintiff's 8, is this the power unit
(19) of the subject meat grinder that you inspected on
(20) behalf of the defendants in this matter?

(21) A. It is.

(22) Q. And where you were talking earlier about two stubs
(23) on the top, are these the two that you were talking
(24) about that the tray where you would put actually
(25) the meat rests upon?

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(1) GEORGE PFREUNDSCHUH

(2) A. Yes.

(3) Q. And what you were talking earlier about the auger,
(4) it actually would extend to a head that goes out
(5) towards the left, that was not present for you to
(6) inspect?

(7) A. That is correct.

(8) Q. And can you tell us what is this knob or butterfly,
(9) whatever you want to, wing nut, what is that item
(10) for?

(11) A. That's to tighten the headstock to the power
(12) transmission coupling.

(13) Q. Did you take any close-up photographs or
(14) measurements of this specific protruding wing nut,
(15) whatever you would like to describe it as?

(16) A. I'm sure I have other photographs that capture that
(17) from different perspectives. I don't recall
(18) measuring that.

(19) Q. Did you ever measure the length of that device or
(20) its protrusion or angle that it comes out of the
(21) machine?

(22) A. No.

(23) Q. Did you ever take any measurements between this
(24) protruding, what I'm calling a wing nut, and the on
(25) and off buttons?

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(1) GEORGE PFREUNDSCHUH

(2) A. No, but I might have some photographs that would
(3) let me estimate the difference, but did I measure
(4) it, you know, directly? No.

(5) Q. Would the actual tray where the meat sits on top
(6) and feeds into the head or headstock that is not
(7) present, that feed would actually be - and you
(8) correct me if I misstate anything - would be
(9) literally just a matter of a couple of inches off
(10) the left edge of this power unit; would that be
(11) correct, where the meat would come down into the
(12) auger?

(13) A. The closest part of the headstock, I suppose, yes,
(14) within probably a couple inches.

(15) Q. Right. And mine is not a calculated. Just an
(16) estimation. Did you ever take any measurements of
(17) that headstock from a similar identical unit that
(18) has all the same features as this unit?

(19) A. What kind of measurements?

(20) Q. Measurements of the headstock distance from the
(21) tray, from the edge of the power unit, from the
(22) on/off buttons, or from this wing nut, did you take
(23) any measurements of a similar unit that has all
(24) these same exact features as this one?

(25) A. No, I did not take any direct measurements. Again,

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(1) GEORGE PFREUNDSCHUH

(2) I could probably estimate some measurements from
(3) what I already have taken.

(4) Q. Now, this one wing nut that is shown here, but
(5) there are pictures that there is some other type of
(6) securing device for the tray itself; are you aware
(7) of that?

(8) A. I am.

(9) Q. And in what manner does that wing nut secure the
(10) tray?

(11) A. Well, there's two of those knobs. I don't know if
(12) they're wing nuts or more like knobs, I forget
(13) exactly, but they're little metal pieces that are
(14) like spot welded or somehow affixed to the
(15) underside of the tray, and they hold those knobs.
(16) There are female threaded holes in those, they're
(17) more like bars that extend down, and then they hold
(18) the knob, each one you can screw a knob into, like
(19) the stud portion of a knob, and when everything's
(20) aligned right, the tips of the studs on each knob
(21) will bear against a cutout on each, the left side
(22) and the right side of the top of the headstock, and
(23) it gives you like a clamping action, so you can
(24) clamp the tray onto the top of the headstock.

(25) Q. And to make sure obviously it won't move when the

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(1) GEORGE PFREUNDSCHUH

(2) machine's in operation, I would assume that's the
(3) purpose?

(4) A. Yes.

(5) Q. It maintains some type of integrity for the machine
(6) to operate properly; would that be accurate?

(7) A. Right. Right. Once you get the tray where it
(8) needs to be location-wise, you want to lock it in
(9) place so it doesn't slide around or move around on
(10) you when you're grinding meat.

(11) Q. Do you know what the angle is of that auger, what I
(12) called a wing nut, just a knob here, what angle the
(13) other one that secures the tray to this power unit
(14) and how it protrudes or angles away from that tray?

(15) A. I don't know. I mean, it might be a 45 degree
(16) angle, but I'm not sure. I might have a photo,
(17) like a head-on view photo that might help answer
(18) the question. I just don't know off the top of my
(19) head.

(20) MR. REDD: It's in the report if you care
(21) to go there.

(22) Q. I'm going to go towards, again, back to Plaintiff's
(23) Exhibit 5, which is the Rule 26, and I'm just going
(24) to go to page 10 of 25 of the report. Now, this is
(25) 21 out of the 91 pages, but 10 of 25 of the actual

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(1) GEORGE PFREUNDSCHUH
(2) expert report. Do you see, first of all, the
(3) photograph that's before you? There are actually
(4) three colored photographs on this page.
(5) A. I do.
(6) Q. And first of all, the machine that is noted
(7) pictured in figure 22 and 23, are they one in the
(8) same machine?
(9) A. Yes, they are.
(10) Q. Are they a Pro-Cut machine?
(11) A. Yes.
(12) Q. Are they EKG-32 with 3 horsepower?
(13) A. Yes.
(14) Q. And do you know what model year this device is?
(15) A. It's in the report. I don't know off the top of my
(16) head.
(17) Q. Does this have the exact same features in head tray
(18) and so forth as the one that we are -- and is the
(19) subject of this lawsuit?
(20) A. I believe it does.
(21) Q. Do you have measurements that are noted anywhere in
(22) your report regards to the measurements of this
(23) machine or a notation saying that it is the exact
(24) duplicate of the one that's been involved in this
(25) accident?

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(1) GEORGE PFREUNDSCHUH

(2) A. No, I don't have that information.

(3) Q. Do you know if the knobs that are securing the tray
(4) to the headstock and for where the meat actually
(5) goes down towards the auger, do you know if those
(6) are the same as that are being basically pictured
(7) here? And I'm just going to show you with the
(8) cursor, because on figure 23 it's on one side of
(9) the head and 22, the second one, which is closer to
(10) where our client was standing near, another one
(11) that secures that tray to the headstock. Are those
(12) the same type of devices to secure the tray to the
(13) headstock as were involved in this accident in the
(14) unit that we have at issue here?

(15) A. I have no reason to believe they're different.

(16) Q. And did you ever compare what was pictured on the
(17) actual device, either through video, photographs on
(18) the date of accident, anything of that nature to
(19) compare the actual devices, those wing nuts or
(20) devices that secure either the headstock to the
(21) unit, or the tray to the headstock, did you review
(22) any photographs and note anywhere in your report
(23) that they were absolutely the same or different in
(24) some manner?

(25) MR. REDD: Objection to form. Are you

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(2) including the owners manual that came with the
(3) product when it was sold?

(4) MR. ZOHAR: No. I'm talking about just
(5) these securing devices. If there was anything that
(6) he saw and note within his report that they were
(7) identical, or they're different in some manner.

(8) A. I'm not aware of any photographs that show that
(9) before the accident or on the day of the accident,
(10) but, again, I have no reason to believe that this
(11) exemplar is different than the incident.

(12) Q. And would you agree also on this unit, this
(13) seemingly is a brand new unit that you have that's
(14) pictured in figure 22 and 23 of your report, do you
(15) also observe that there are additional labels have
(16) been attached to this power unit that are not on
(17) the ones, or on the unit that's the subject of this
(18) lawsuit?

(19) A. Well, yeah, I see, for figure 22 I see one
(20) additional label.

(21) Q. All right. This is page 15 of 25 in your report.
(22) Page 26 of 91 of the Rule 26 disclosure. First of
(23) all, are you aware of some of the requirements of
(24) placing either warning signs, labels on units and
(25) such as the ones that are at issue in this case?

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(2) A. Yes.

(3) Q. And is one of the requirements that that label be
(4) visible to the operator of that machine?

(5) A. Generally speaking, yes.

(6) Q. And the tray that is at the subject of this lawsuit
(7) and of this specific machine, would you agree that
(8) that tray is larger than the foot or footing that
(9) it sits upon on the top of the power unit, meaning
(10) it is larger than the square dimensions of, you
(11) know, of width and length?

(12) A. Yes. The tray, the footprint, or the shadow, if
(13) you will, is larger. Silhouette perhaps is a
(14) better word.

(15) Q. Would you agree that a person that is using that
(16) unit and standing in front of it with the tray
(17) right before him conducting work, that that tray
(18) may have some obstruction of a label from that
(19) position? Not from walking towards the machine,
(20) but from just standing there and using the machine
(21) while grinding meat?

(22) A. Yeah, if your chest is right up against the tray,
(23) of course, you can't see the label.

(24) Q. Now, you read some depositions that were taken of
(25) several witnesses, to include the plaintiff in this

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(2) action?

(3) A. Could you repeat the question. I'm being
(4) distracted by the thing on your screen.

(5) Q. I apologize. Sorry about that. Let me just take
(6) it down. In your review of documents, besides your
(7) physical inspection of the machine, photographs
(8) that you have taken, in your review also did you
(9) read deposition transcript of some of the witnesses
(10) that have been deposed in this action?

(11) A. I did.

(12) Q. Okay. And in those depositions, at any point did
(13) you note in your report that the people that were
(14) using this machine found it difficult to process a
(15) lot of meat and that that was the reason they took
(16) off this guard; do you recall having that testimony
(17) review?

(18) MR. REDD: Objection to form.

(19) A. I recall testimony from one witness about why the
(20) guard was removed.

(21) Q. And was that to make the processing of meat
(22) quicker, more efficient?

(23) A. I need to refer to my report. I don't know if you
(24) want to pull it up on the screen or you just want
(25) me to say I'm looking to the left.

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(2) Q. You can just take a look, that's fine. Take a look
(3) at your report.

(4) A. I've got a quote from Mr. Hodjimametov, if I'm
(5) pronouncing his last name correctly.

(6) MR. REDD: You've butchered it, George.
(7) Just call him Khusen.

(8) MR. ZOHAR: Yeah, make it easier. I
(9) understand.

(10)
(11) (Off the record discussion was held)

(12)
(13) A. I've looked at my report and I've refreshed my
(14) memory. I'm ready for your question.

(15) Q. So did you see that they had stated that it was to
(16) make it easier to process meat through this device?

(17) A. Well, reading between the lines, yes. It said that
(18) we're having a hard time, he said it was very
(19) narrow, we were having a hard time putting meat in
(20) the hole. That's why we took it away. Now, I
(21) don't know. Through the interpreter it came out
(22) that way, but to me a hole and a gap between two
(23) parallel objects are two different things. So it
(24) is what it is.

(25) Q. At any point prior to and up to the point that you

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(2) had completed your report, did you ever have anyone
(3) use the machine that you have purchased, which is a
(4) similar or exact model in some manner and process
(5) any type of meat through that device?
(6) A. No.
(7) Q. Do you know how much meat can actually be processed
(8) through that machine as it is, out of the box with
(9) a guard?
(10) A. No. I don't know. I'm not aware of anybody doing
(11) studies. All I know is what's in the manual.
(12) Q. Did you have anybody or any outside facility or
(13) entity on your behalf conduct testing to see what
(14) the actual meat processing ability of that subject
(15) unit was?
(16) A. No, I did not.
(17) Q. Do you have any independent verification of what
(18) the manufacturer states is the processing
(19) capability of that meat grinder?
(20) A. I don't have anything, no.
(21) Q. Now, at some point I know there's been discussions
(22) about the on/off button, so when someone is
(23) standing with the tray towards possibly chest
(24) level, around, a little bit higher, lower, or
(25) whatever's comfortable for them, from that position

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(1) GEORGE PFREUNDSCHUH
(2) when someone is operating, are they able to visibly
(3) see the on and off button?
(4) **A. No.**
(5) Q. You're familiar with what a mushroom button is,
(6) mushroom style button?
(7) **A. You mean a mushroom style emergency stop button?**
(8) Q. Or just the shape itself, where it's enlarged,
(9) larger than other buttons that may be right next to
(10) it. Protrudes maybe a little bit more, maybe a
(11) little wider, something of that nature, are you
(12) familiar with that type of button in general?
(13) **A. Yes.**
(14) Q. And the buttons, the on/off buttons to this subject
(15) machine, are they similar in size?
(16) **A. I think they're about an inch diameter, and**
(17) **mushroom buttons typically are bigger.**
(18) Q. Right. On this specific machine are there any
(19) mushroom buttons to shut off the unit?
(20) **A. No.**
(21) Q. And is it correct to state that the on button and
(22) the buttons to employ this machine are situated in
(23) an area where you really can't have an
(24) unintentional operation of this? Somebody has to
(25) look and push an exact button to get this started;

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(2) it's not something that you could just walk by a
(3) machine and, you know, bump necessarily a hip and
(4) it's going to stall; would you agree with that?

(5) A. I do.

(6) Q. But would you agree also that the button is placed
(7) in an area that will not offer itself to mistakenly
(8) being pressed?

(9) A. Right. We're talking about the on button. There's
(10) two different buttons.

(11) Q. Yes.

(12) A. On/off, right?

(13) Q. Right. And would you agree that the off button is
(14) right next to the on button and would have the
(15) similar features as the on button as far as it
(16) being in an area that's not going to be mistakenly
(17) pressed by anyone that's just passing by the
(18) machine?

(19) A. Yes.

(20) Q. Now, with regards to the auger itself, now, the
(21) horsepower, is that approximately 3 kilowatts, the
(22) 3 horsepower?

(23) A. No. Kilowatts and horsepower are two different
(24) things.

(25) Q. Can you tell us what the power is of that specific

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auger as it turns with that horsepower?

A. I would think, you know, a power transmission, so you've got the motor. The motor's got a nominal horsepower rating. Now, is it exactly at 3 horsepower, is it a little bit less, a little bit more? I don't know. But we start with that. And then we go through a transmission, and you'll lose some power through your power transmission, and then finally the power gets delivered to the auger, and it's that power then is turning the auger, cutting the meat and pushing the meat out. So that's where the power goes. You're talking about friction before. There's, you know, meat that's between the length of the auger and the inside surface of the headstock and then, you know, there's the power that gets consumed to actually cut the meat and then, you know, there's power associated with that forcefully pushing it through those perforated holes.

Q. And you can correct me. It sounds as if you start off, and possibly an inaccurate - and that really can be said from a lot of electrical units - an inaccurate amount of power, but close to that 3 horsepower and from what you said, it seems as if

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(2) once it starts going, it loses some of its power as
(3) it's going towards the auger?

(4) A. Well, I'm just saying the power, I mean, all the
(5) power's going into one end of the auger and it's
(6) being -- that power is being delivered, or used up
(7) perhaps is a better way of looking at it, in
(8) different ways.

(9) Q. The auger itself, so how many revolutions per
(10) second are there for that unit at 3 horsepower?

(11) A. Well, I measured the no load speed. No load means
(12) it's not, you know, working hard to grind meat, you
(13) know, so if you loaded it up, the speed's going to
(14) change, but typically not an appreciable amount,
(15) and I measured 3 revolutions per second
(16) approximately.

(17) Q. So is there a speed that, other than the 3
(18) revolutions per second, is there any other term of
(19) art to give a definition for what the speed of that
(20) auger is, or is it just the 3 RPS max that you've
(21) described? So is there another type of measurement
(22) to determine the speed of that auger other than
(23) revolutions per second or otherwise?

(24) A. I don't follow.

(25) Q. I would assume that it's not, if you're -- now,

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(2) that auger itself, you're saying no load. Now, was
(3) that no load measurement done, not on the subject
(4) machine, but the one that you had purchased and
(5) have available?
(6) A. Of course, because, you know, we were not able to
(7) energize the subject machine.
(8) Q. What was the manner in which you measured the auger
(9) speed?
(10) A. I used a DSLR, digital SLR camera, at 60 frames per
(11) second, and then I watched the video in slow mo
(12) frame by frame to discern that.
(13) Q. And that was 60 per second?
(14) A. 60 frames per second was my video rate.
(15) Q. Now, have you done any type of testing or have any
(16) type of outside facility or information available
(17) to you that would describe the reduction in the
(18) revolutions per second based upon meat being
(19) processed at the time?
(20) A. I haven't tested that, if that's what you're
(21) asking, no.
(22) Q. Would that cause a reduction in the revolutions per
(23) second if you're processing meat?
(24) A. It will. I don't think it's going to be
(25) substantial. I don't think it's going to be more

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(2) than like probably more than 10% or something.

(3) It's not going to be huge.

(4) Q. Is there some type of calculation that you would
(5) come about for that, other than your experience?

(6) A. No. Just my experience.

(7) Q. Okay. And when the plaintiff, Mr. Khusenov's arm
(8) is in there, would it be a correct statement that
(9) the friction, knowing that now that there are solid
(10) bones and larger pieces of meat and large pieces of
(11) bone going in that grinder, would that cause the
(12) friction to be increased at that point?

(13) MR. REDD: Note my objection to form. Go
(14) ahead.

(15) A. Well, yes. I mean, once his arm or hand or body
(16) parts get in there, things will change. I mean,
(17) they tell you not to grind bone. So how much that
(18) would slow down the revolutions per second, I don't
(19) know.

(20) Q. But that's something that could be measured?

(21) A. I don't know. I tend to think not, because how do
(22) you replicate exactly what was happening at the
(23) time of the accident, or at the instant during the
(24) accident sequence? It's a changing dynamic over
(25) time.

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(1)
(2) Q. All right. And I saw within your report at some
(3) point making notation with regards to inertia. Can
(4) you tell us first of all your definition for us lay
(5) people what inertia means.

(6) A. Inertia's mass. So there's a rotational analogy,
(7) you know, usually you kind of think of like a
(8) medicine ball, you think of like if you could
(9) relate to that, you know, it's kind of heavy, like
(10) bigger than a basketball perhaps, something that's
(11) heavy. If somebody throws a medicine ball at you
(12) and you catch it, and you've got all that inertia.
(13) So in the rotational world, it's both mass and how
(14) that mass is spread out in terms of distance from
(15) the rotation -- from the axis that the body is
(16) rotating with. So, yeah, I mean, so here you've
(17) got the motor itself has inertia. It's a 3
(18) horsepower motor, it's probably a big heavy motor.
(19) Then the power transmission components, the gears,
(20) they have inertia, and then you've got the auger.
(21) So that's what I'm referring to.

(22) Q. Now, the auger itself, and we're just talking about
(23) basically this spinning rod.

(24) A. Right.

(25) Q. That has those veins of what you described, that

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(2) pull the meat and push it towards the headstock and
(3) ultimately being sliced and ground. Would it be
(4) correct to say based upon your example that if an
(5) auger were a much wider auger, those veins from the
(6) top to the bottom, as you look at an auger that is
(7) lengthwise, were faced from right to left, an
(8) auger, but the height of that auger, if it is a
(9) more thicker or higher auger, same length, then the
(10) inertia might be greater than something that is a
(11) smaller auger, I guess?

(12) MR. REDD: Objection to form.

(13) A. Yes. Intuitively, yes. I mean, it also has to do
(14) with the weight and the distribution of that
(15) weight, but generally speaking, yes. But the same
(16) way, if it's spread out over a larger radius, then,
(17) yes, it would have more rotational inertia.

(18) Q. Had you ever taken any measurements of what the
(19) rotational inertia was for this specific auger?

(20) A. No. I didn't attempt to measure that. And again,
(21) it's all connected, right? So really, what
(22) you're -- the auger's part of it, you're really
(23) interested in every part of that connected
(24) assembly, you know, going back through the power
(25) transmission and the motor, you know, the rotating

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portion of the motor itself. The rotor as they
call it, R-O-T-O-R.

Q. And I want you to correct me on this if I am
misstating anything, but would it be correct to say
that even the auger itself, the point where it
interacts with the power unit that spins it, has
more energy on that end of the auger than to the
farthest portion of that auger?

A. I wouldn't say that, because it's a rigid object.

Q. Right.

A. You know, you can't separate one end from the
other. It's one in the same.

Q. Would the friction on the side that is away from
the power unit have more significance of causing
friction, you know, like slowing down the auger,
than friction towards the right side and close to
the power unit?

A. At what point in time? Before the accident? I
mean, it all depends.

Q. At the time.

A. It depends on the operating scenario at that given
instant. If you're like dropping some particles of
bone in there, and the bone reaches the point where
the, you know, the knife is trying to cut it, that

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could, you know, create a lot of momentary
friction, or losses that would have an effect.

Q. I just want to find it. On page 24 of 25, I'll
just bring your attention to this. And that's page
35 of 91 of again, Plaintiff's Exhibit 5, which is
Defendant's Rule 26 disclosure. In that first
paragraph, and I'll just highlight that for you,
but in this paragraph you have that there is what
you described as a coast-down time from inertia in
the motor, and you put it at approximately three
and a half seconds. Can you tell me how you
calculated that number.

A. I measured that on the exemplar.

Q. And how did you measure that on the exemplar? And
when you say exemplar, we're talking about the
similar model that was new and not the one that was
involved in this accident, correct?

A. Correct.

Q. And how did you measure that?

A. It's very simple. I used my iPhone, the stopwatch
feature, and I start the stopwatch at the same time
I press the stop button, and when the rotation
stops, I press the button again on the stopwatch,
and it gives me the elapsed time. I did that

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(2) repeatedly, and it was consistently about three and

(3) a half seconds. you know, the only variation is my

(4) reaction time.

(5) Q. And that was with no load; would that be correct,

(6) those measurements?

(7) A. That is correct.

(8) Q. And with a load, or a load that is more than what

(9) the manufacturer intends to grind, such as bone in

(10) there, would those things have an impact on that

(11) coast-down time from inertia?

(12) A. Yes, it would.

(13) Q. Do you know what the accuracy plus minus is with

(14) regards to your testing method with an iPhone and

(15) the stopwatch?

(16) A. It's probably like close to minus half a second or

(17) less.

(18) Q. And how is that determined?

(19) A. Well, just from the variation of my measurements.

(20) I mean, my thumb, my reaction -- my reaction's

(21) probably plus or minus a quarter or one-third of a

(22) second, you know.

(23) Q. Would there be laser sightings and other measuring

(24) devices that could almost eliminate any type of

(25) variance plus or minus and to be done with that

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same test?

A. I'm sure there are ways to improve it, because there's uncertainty with my method with both the starting time, the starting time at which I'm shutting off the power and then the stopping time when I'm looking, using my eyeballs to judge that the rotation has ceased. I think I was also using my ears a little bit, too, because you hear when it stops, all the noise stops, and while it's still running it's making noise. So I'm using both of my senses, my eyes and ears, to determine when it had stopped moving. And, yes, so you could probably instrument it with some kind of sensors, and that would more accurately pick off the start and stop times.

Q. And would it be correct also if we had hypothetically this type of device available to us and you were able at that same time to try to grind some portions of bone and meat similar to what would have been a forearm, would that also have an impact on that and a more accurate measurement of what that coast-down time from inertia would be?

MR. REDD: Objection to form.

A. You get an answer that would apply for those

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(2) conditions. Yeah, I agree.

(3) Q. And those conditions would be more closely related
(4) to what they were at the time of the accident;
(5) would that be a fair statement?

(6) A. Yes.

(7) MR. ZOHAR: Can we just take a five or
(8) ten-minute break and we'll be done here shortly.

(9) MR. REDD: Let's take ten, okay?

(10) MR. ZOHAR: Absolutely.

(11)

(12) (Short break was taken)

(13)

(14) BY MR. ZOHAR:

(15) Q. So getting back to your measurements, do you recall
(16) when you conducted this iPhone and stopwatch
(17) testing?

(18) A. Probably around the time I was preparing my report.

(19) Q. And would that be something you would have
(20) documented and have in the regular course of
(21) business, that information?

(22) A. I might have had some scratch notes.

(23) Q. All right. So I'm going to show you just a
(24) picture. It is an unrelated meat grinder, but it's
(25) 3 horsepower, and I just wanted to find out from

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(1) GEORGE PFREUNDSCHUH
(2) you, this is the unit, again, it's a Thunderbird
(3) stainless steel number 32, 3 horsepower meat
(4) grinder, 220 volt. It is not the one that's
(5) involved in this accident. There are different
(6) features here, but I wanted to ask you about the
(7) buttons that are seen on this side in the direction
(8) where the operator would be facing the machine.
(9) MR. REDD: Hey, Gil, is this marked; are
(10) you going to mark this?
(11) MR. ZOHAR: We'll mark it as --
(12) MR. REDD: I think we're up to 9?
(13) MR. ZOHAR: Yeah, Plaintiff's 9.
(14) MR. REDD: Have we seen this as part of the
(15) disclosure package?
(16) MR. ZOHAR: No. I just pulled it up just
(17) now.
(18) Q. Is there any difficulty in transferring the buttons
(19) that are under the tray not visible to a operator
(20) of a meat grinder such as the one in our case, to
(21) have the buttons put on the face of the machine
(22) where they are basically right up against where his
(23) body is and in his view and in the manner such as
(24) what is depicted in this photograph?
(25) MR. REDD: Okay. Note my objection to the

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(2) form of the question. I also want to note my
(3) objection to the extent we're putting out documents
(4) and pictures and things which have not been
(5) disclosed in any disclosure device in this case.
(6) Over objection, go ahead.

(7) MR. EVANS: I'll join.

(8) A. Could I just have the question repeated, please.

(9) MR. ZOHAR: Deanna, if you'll read it back.

(10) COURT REPORTER: Sure.

(11)
(12) (Off the record discussion was held)

(13)
(14) A. I don't think there's any difficulty. It's just a
(15) matter of choice.

(16) Q. What would the cost be if a manufacturer wanted to
(17) just switch the buttons from that left, where the
(18) headstock is at under the tray, to this panel which
(19) would be towards where Mr. Khusenov's chest or his
(20) body would be in the manner that we have here, one
(21) on button that looks greenish or aqua, and a red
(22) somewhat of a mushroom button; how much would it
(23) cost to do that? An estimation's fine.

(24) MR. REDD: Objection to the form.

(25) A. You're asking me what's the difference in cost

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(2) between a mushroom red button that I see there
(3) versus the change?

(4) Q. Right, to change the location, and to put a
(5) mushroom button such as something that you see
(6) here.

(7) A. Well, what I see there is also a plate that's
(8) surrounding, instead of a label. So, I mean,
(9) that's a cost adder. I don't know off the top of
(10) my head what the cost difference is between a
(11) mushroom button. I mean, if you get like a really
(12) high end emergency stop button, it's probably
(13) substantially more costly than the button, the off
(14) button that currently is provided. I mean, in the
(15) scheme of things it's not a big difference for the
(16) entire grinder.

(17) Q. Right. I mean, the grinder machine is several
(18) thousand dollars, but this alteration of removing
(19) the buttons and using a mushroom button of some
(20) sort, we're talking about dollars, not hundreds of
(21) dollars to do this?

(22) A. Yeah, it's probably, I don't know, between 50, 100,
(23) 150. Without working out the details, I don't
(24) know.

(25) Q. Right. Now, have you testified in any federal case

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(1) GEORGE PFREUNDSCHUH
(2) in court?
(3) A. Yeah, there was one in Brooklyn where I testified
(4) some time ago.
(5) Q. And what was the name of that case?
(6) A. Jimenez versus System Freight, I believe.
(7) Q. And you said System, I didn't get the second word.
(8) A. Freight.
(9) Q. System Freight. How long ago was that case?
(10) A. I don't know. It was a long time ago, I think.
(11) Q. Are we talking more than ten years, five to ten
(12) years, or something more?
(13) A. Could be more than ten years.
(14) Q. Was that with regards to communications; we're
(15) talking about fiberoptic, and things of that nature
(16) that you were doing at the time?
(17) A. No. No. That was, you know, while I was here at
(18) Affiliated. It had to do with allegations of
(19) trucks, a contract trucking company, allegations of
(20) them backing their trucks up and hitting the wall
(21) of a box making facility, a cardboard box making
(22) facility, and causing stacked materials to fall and
(23) land on someone.
(24) Q. And were you admitted as an expert at that time
(25) when you were testifying in Jimenez?

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(1) GEORGE PFREUNDSCHUH

(2) A. I was. I gave trial testimony.

(3) Q. Any other federal court testimony in court?

(4) A. I don't think there's any other cases where I've
(5) actually given testimony in federal court.

(6) MR. ZOHAR: I have nothing further
(7) gentlemen. George, thank you for your time.
(8) Hopefully I didn't cause any, or too much delay for
(9) you to begin this long weekend. So enjoy your
(10) weekend and thanks again.

(11) MR. REDD: Tom, do you have any questions?

(12) MR. EVANS: Yeah, I've just got a few
(13) questions, if you don't mind, and I won't keep you
(14) too much longer, George. Gil, if you could put up
(15) Plaintiff's 9 again.

(16) MR. ZOHAR: Yes. Hold on one second.

(17)

(18) CROSS-EXAMINATION

(19)

(20) BY MR. EVANS:

(21) Q. Good afternoon, George. My name's Tom Evans. I'm
(22) an attorney. I represent Karzinka, the third-party
(23) defendant in this action. I just have a few
(24) questions for you. Plaintiff showed you Exhibit 9,
(25) here which appears to be a different model of a

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(1) GEORGE PFREUNDSCHUH
(2) commercial meat grinder, and was asking you about
(3) the on/off button. Do you see the location of that
(4) on/off button?
(5) A. Yeah, I've got to change my view here. There we
(6) go. Yes, I see the location.
(7) Q. Is that further away than the on/off button on the
(8) Pro-Cut meat grinder that's the subject of this
(9) lawsuit?
(10) A. What do you mean by further away?
(11) Q. Well, further away from the area where the operator
(12) would be working near the headstock to put the meat
(13) into the grinder.
(14) A. Yes, it is.
(15) Q. Okay. And if an operator's right hand got caught
(16) in the headstock in the auger, would they be able
(17) to get their left hand to turn that button off or
(18) hit that red button where it's located on the
(19) Thunderbird model?
(20) A. Potentially not, you know.
(21) Q. Well, would it be easier if the button was in the
(22) location where the Pro-Cut button is located on the
(23) subject meat grinder?
(24) A. I would say it would be easier. If I'm
(25) right-handed or if the person's right-handed and

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GEORGE PFREUNDSCHUH

it's the right hand that's caught, it's closer to
where your left hand normally is on your body.

Q. Okay. And there's potential that you couldn't,
with your left hand, if your right hand got caught,
could hit that stop button on this Thunderbird
model, correct?

A. Say that again. There's potential that?

Q. There's the potential that if your right hand in
the position -- in other words -- I'll strike that
question. The position of the operator for this
Thunderbird where the headstock is located would be
more towards the left of the tray, correct?

A. Correct.

Q. All right. And if his right hand got caught in the
headstock, would his left hand be able to easily
access the red stop button in this Thunderbird
model as opposed to the buttons for the on/off that
were located on the Pro-Cut machine?

A. I would say it's harder.

Q. Okay. Thank you.

MR. EVANS: I'm done with that, Gil. So we
can go back.

Q. Okay. Earlier on, I think there was, we were
discussing the visibility of warnings, and I just

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(1) GEORGE PFREUNDSCHUH
(2) want to ask you, Mr. Pfreundschuh, are you aware of
(3) any requirement or standard that requires a label
(4) to be within view of an operator while he's
(5) standing next to a meat grinder?
(6) A. No. I think the idea is that you can conspicuously
(7) see the label as, you know, before you start
(8) operating it, and the idea is that you read that
(9) information before you start operating the machine.
(10) Q. Okay. But there's no standard or requirement that
(11) a warning or label be in view of the operator while
(12) he's operating the machine, correct?
(13) A. Correct. Nothing.
(14) Q. In this particular case, this Pro-Cut meat grinder,
(15) the on/off button is located right around the
(16) corner, within inches of that label, correct, that
(17) warning label?
(18) A. Correct.
(19) Q. Okay. So if you had to turn that machine on, you
(20) would have easy access view to the warnings,
(21) correct?
(22) A. Correct. I mean, in my mind it would be impossible
(23) not to notice that label, and the label's there to
(24) be noticed and read, so if you're looking for the
(25) on/off buttons, you're going to see that label.

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(1) **GEORGE PFREUNDSCHUH**

(2) Q. And in fact, there are a lot of products that are
(3) out there on the market that the warning label is
(4) not within the view of the operator while the
(5) product is in use, correct?

(6) A. Yeah, I would say that that's probably the case. I
(7) can say table saws, for example, I do a lot of
(8) power tool cases, and the warning label is on the
(9) front of the table saw, but yet the table extends
(10) over that very similar to this situation and, you
(11) know, the on/off switch is also on the front. So
(12) the idea is, as you walk up to it, you can see the
(13) warnings, you can read them, and hopefully you heed
(14) them. They weren't heeded in this case. And,
(15) yeah, when you're actually working on the table
(16) saw, you can't see that, those warnings.

(17) Q. Okay. And there are other examples, too, and
(18) particularly let's say if a car is in them, you see
(19) the visors in cars, right, and there are warning
(20) labels on the inside of the visor, which when
(21) folded, nobody would see, correct?

(22) A. Correct.

(23) Q. All right. And some of those warnings warn about
(24) potential rollovers of the vehicle, and that's not
(25) something you would see, correct?

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(1) GEORGE PFREUNDSCHUH

(2) A. Correct.

(3) Q. Okay. But nevertheless, they're valid warnings and
(4) they're warnings that comply with all committee
(5) standards, regulatory agency standards, et cetera,
(6) correct?

(7) A. Well, I mean, in this case you had Intertek, which
(8) is an independent agency that evaluated --

(9) MR. ZOHAR: Just objection to the question.
(10) Go ahead.

(11) A. Evaluated the product. So I'm less familiar with
(12) how automobiles do their, if it's more of a self
(13) evaluation or whether they hire, as you see in like
(14) commercial kitchen products or power tools, I'm
(15) very familiar with the power tool world where
(16) typically you hire someone like Intertek or CSA or
(17) UL, a so-called nationally recognized test
(18) laboratory, to evaluate your product. And they are
(19) the ones who are supposed to be cognizant of all
(20) the applicable standards and requirements and make
(21) sure that, you know, they won't issue the
(22) authorization to use their mark unless they feel
(23) that you comply with all the requirements.

(24) Q. Okay. In your opinion on this case, are you aware
(25) of any standards that require the use of emergency

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September 2, 2022

(1) GEORGE PFREUNDSCHUH
(2) stop buttons on commercial meat grinders?
(3) A. No, I'm not.
(4) Q. Okay. Are you aware of any standards or regulatory
(5) agency standards that require interlock safety
(6) guards on these commercial meat grinders?
(7) A. No, I'm not.
(8) Q. Okay. You're aware that this Pro-Cut machine had a
(9) fixed safety guard on it as it was manufactured,
(10) correct?
(11) A. Correct.
(12) Q. All right. And that fixed safety guard would
(13) prevent one from getting his hand below the
(14) headstock, correct?
(15) A. Inside the headstock?
(16) Q. Yes.
(17) A. Yes, correct.
(18) Q. And the purpose of that safety guard --
(19) A. The point of operation, or the hazard in this case,
(20) the rotating auger.
(21) Q. Okay. And it also had a plunger and warnings and
(22) instructions concerning the use of the plunger as
(23) opposed to one's hand placing meat near the
(24) headstock, correct?
(25) A. Correct.

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(1) GEORGE PFREUNDSCHUH

(2) Q. All right. And if this safety guard had not been
(3) removed on this machine, would we be here today for
(4) an accident with someone who got his hand caught in
(5) the headstock?

(6) A. No, we would not.

(7) Q. We also had some testimony with respect to these
(8) interlock safety guards. What's easier to bypass,
(9) Mr. Pfreundschuh, a fixed safety guard or an
(10) interlock safety guard?

(11) A. I think it all depends. I happen to have another
(12) meat grinder case involving a Biro model 922. It
(13) had an interlock. The interlock involved a magnet
(14) that was on the underside of the tray. The tray
(15) had the guard mounted to it, and they, in somewhat
(16) similar to this case, they must have used a grinder
(17) or they just overpowered the nuts. The nuts were
(18) welded to the three posts that held the guard to
(19) the tray and they removed the guard. So even
(20) though it had an interlock, and I believe Hobart
(21) makes a similar meat grinder with a very similar
(22) design to that Biro design that I looked at. So
(23) two examples of products that have interlocks and I
(24) saw firsthand how in spite of the fact that it had
(25) an interlock, an accident still occurred, because

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GEORGE PFREUNDSCHUH

people found a way to remove the guard.

Q. Is it easier to remove the interlock as opposed to a fixed stainless steel fixed guard?

A. Yeah. I mean, it all depends on the perspective of the person who's trying to defeat the safety features. I've had HVAC cases where you have devices that are supposed to prevent freeze, you know, freeze damage, and you get nuisance trips and they go in there and they bypass the wires. They wire, you know, electrically bypass the device that's supposed to protect you and prevent bad things from happening. So if somebody's so inclined and they feel that they can easily open up the inside of the enclosure and figure out what wires to bypass, they'll do that rather than in this case, testimony is that they used an angle grinder and it took ten to fifteen minutes of cutting away to remove the guard.

MR. EVANS: All right. Thank you very much.

MR. REDD: Very, very briefly.

DIRECT-EXAMINATION

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September 2, 2022

(1) GEORGE PFREUNDSCHUH

(2) BY MR. REDD:

(3) Q. Sir, did you have the occasion to look at the
(4) deposition transcripts of the plaintiff in this
(5) case?

(6) A. Yes.

(7) Q. And in so doing did you see any testimony from the
(8) plaintiff regarding his knowledge of the hazard
(9) that was presenting?

(10) A. I did.

(11) Q. And in that regard, how did plaintiff testify?

(12) MR. EVANS: I'm just going to object to the
(13) line of question, but go ahead.

(14) A. He testified that he knew that what could happen to
(15) meat could happen to his hand if his hand got
(16) there. Got in the wrong position, the wrong place.

(17) Q. And is that testimony, is it significant to you as
(18) an expert who is evaluating this piece of
(19) equipment?

(20) A. Yes.

(21) Q. Why?

(22) A. Because it shows it wasn't a hidden hazard and he
(23) really didn't need a warning, because he knew what
(24) could happen. He saw firsthand what could happen
(25) if he put his hand in the wrong position, and it

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(1) GEORGE PFREUNDSCHUH
(2) sounds -- it seems to me that he operated this for
(3) so long, and you kind of get numb, you kind of
(4) forget about how the severity of the hazard, and
(5) then eventually you make a mistake and something
(6) terrible happens.

(7) MR. REDD: Thank you, sir.

(8) MR. ZOHAR: Just one quick question.

(9)
(10) RE-CROSS-EXAMINATION

(11)
(12) BY MR. ZOHAR:

(13) Q. Going back on Mr. Evans' question with regards to
(14) the buttons and the emergency stop button that was
(15) shown on the side of the machine. Would you agree
(16) that -- you said it was simple to add these things
(17) or move them. Would you agree that that button,
(18) even though it's towards the right of that motor
(19) unit, could be moved to the left, could be moved
(20) up, down, and the cost is of very light
(21) significance under the circumstances of moving that
(22) button?

(23) A. Correct.

(24) MR. ZOHAR: All right. I have nothing
(25) further.

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(1) GEORGE PFREUNDSCHUH

(2) MR. EVANS: I just have a few more.

(3)

(4) RE-CROSS-EXAMINATION

(5)

(6) BY MR. EVANS:

(7) Q. I think we were also, we were talking about
(8) perception and reaction time in terms of getting
(9) one's hand or body part to a button to turn it off.
(10) Is there a standard number for such perception and
(11) reaction time?

(12) A. There's a range. I'm looking right now at, we have
(13) the Human Factors and Ergonomics Design Handbook in
(14) our library. I've used it a lot over the years. I
(15) mean, their listing here, complex reaction time,
(16) you've got stimulus, detection and neural transit
(17) time, only a tenth of a second, but that's one of
(18) four components. The remaining three components
(19) are brain recognition time, four-tenths of a
(20) second. So now we're up to half a second.

(21) Q. Let me stop you there for a minute. Brain
(22) recognition time denotes, I have to figure out,
(23) whoa, something is happening here and it's not
(24) good, right?

(25) A. Yes.

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GEORGE PFREUNDSCHUH

(1) Q. And it's that chunk of time?

(2) A. Right. Just to recognize that you're in a bad
(3) position, I guess in this case, that, oh, my gosh
(4) my fingertip's starting to get pulled in. And then
(5) the next one is decision making time, and it says
(6) up to four seconds. And then after that, motor
(7) response time, it's got a minimum six seconds. And
(8) that's right out of the Human Factors and
(9) Ergonomics Design Handbook. I think it's fair to
(10) say that, you know, it's impossible for me to put
(11) myself in his position, but at the same time, I
(12) think it's reasonable to say, you know, there's
(13) probably a little bit of disbelief at first, and
(14) then it becomes panic and then you realize you've
(15) got to do something, you know, decision making,
(16) what am I going to do? Maybe you think you can
(17) like overpower the machine and pull your hand away
(18) and you'll only, you know, have a small, some minor
(19) damage. Things are happening fast and it's
(20) impossible for me to -- I haven't done any testing,
(21) reconstruction, so it's just pure speculation one
(22) way or the other as to -- but it's not
(23) instantaneous, that's for sure.
(24)

(25) Q. Okay. And the operation of the machine also

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(1) GEORGE PFREUNDSCHUH
(2) depends upon the experience of the operator in
(3) terms of how they utilize the machine. Some might
(4) use it slower, some might use it faster, some might
(5) do things differently in terms of overall speed of
(6) the machine, correct?
(7) A. Are you talking about like pounds per hour or
(8) pounds per minute?
(9) Q. Or how they operate it. Maybe they operate it -- I
(10) mean, there is no slow speed and there is no fast
(11) speed for these grinders.
(12) A. Right. You're talking about variable speed. You
(13) can't dial it to whatever speed you want. It's
(14) just running at that 3 rotations per second, and
(15) it's capable of grinding a lot of meat in a short
(16) period of time. It's up to you.
(17) Q. Okay. Did you ever see the pathology report from
(18) New York Presbyterian Hospital with respect to the
(19) auger and what was found in the auger and the
(20) headstock area?
(21) A. I think I was being asked about that. It was like
(22) a two-page document?
(23) Q. Yeah.
(24) A. I have it. I just don't recall off the top of my
(25) head what's in there.

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September 2, 2022

(1) **GEORGE PFREUNDSCHUH**

(2) Q. Do you remember if they saw in there if they found
(3) any evidence of the white butcher coat that the
(4) plaintiff claims was pulled into the auger and
(5) caused his hand to go into the machine?

(6) A. No, I don't recall anything like that in there.

(7) Q. Do you recall seeing evidence of blue latex glove,
(8) particles of the glove that he was wearing in the
(9) pathology report?

(10) A. I wouldn't be surprised if they found that. I
(11) mean, it stands to reason they would have.

(12) Q. If they didn't find any portion of any fabric from
(13) the butcher coat, would that affect your opinion as
(14) to whether or not plaintiff got his white butcher
(15) coat caught in the auger, which pulled his hand
(16) into the machine?

(17) A. Well, it's my opinion that it didn't happen based
(18) on watching the video. And I think your expert
(19) reached the same conclusion. And absolutely, I
(20) mean, that would just further buttress my opinion
(21) that's currently just based on watching the video.

(22) MR. EVANS: Okay. Thank you very much,
(23) Mr. Pfreundschuh.

(24) THE WITNESS: You're welcome.

(25) MR. REDD: We done guys?

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GEORGE PFREUNDSCHUH

MR. ZOHAR: We're done.

MR. REDD: All right. Hey, listen,
everybody, have a wonderful holiday weekend, and
then the hell really begins.

- - - - -

(Deposition concluded at 3:50 p.m.)

- - - - -

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September 2, 2022

(1) GEORGE PFREUNDSCHUH
(2) C E R T I F I C A T E
(3)

(4) I, GEORGE PFREUNDSCHUH, do hereby certify
(5) that I have read the foregoing deposition in the case of
(6) ISOJON KHUSENOV, Plaintiff, versus PROKRAFT, INC., et al,
(7) Defendants, and said deposition constitutes a true and
(8) correct transcript of my testimony given at that time.
(9)

(10)
(11) _____
GEORGE PFREUNDSCHUH
(12)
(13)
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(15) Dated this _____ day of _____ 2022.
(16)

(17)
(18) Subscribed and sworn to before me this
_____ day of _____ 2022.
(19)

(20) _____
Notary Public
(21) My commission expires _____
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(1)	GEORGE PFREUNDSCHUH
(2)	I N D E X
(3)	
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(15)	60	3
(16)	64	2

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(1) GEORGE PFREUNDSCHUH
(2) C E R T I F I C A T E
(3) STATE OF OHIO)
(4) STARK COUNTY)
(5) I, Deanna Gleckler, a Registered
(6) Professional Reporter and Notary Public in and for the
(7) State of Ohio, duly commissioned and qualified, do hereby
(8) certify that the within named Witness, GEORGE
(9) PFREUNDSCHUH, by me first duly sworn to testify the
(10) truth, the whole truth and nothing but the truth in the
(11) case aforesaid; that the testimony given was by me
(12) reduced to Stenotypy and afterwards transcribed upon a
(13) computer, and that the foregoing is a true and correct
(14) transcription of the testimony so given by him as
(15) aforesaid.
(16) I do certify that this deposition was taken at
(17) the time and place in the foregoing caption specified. I
(18) do further certify that I am not a relative, counsel or
(19) attorney of either party, or otherwise interested in the
(20) event of this action.
(21) IN WITNESS WHEREOF, I have hereunto set my
(22) hand and affixed my seal of office on this 8th day of
(23) August, 2022.
(24) 
(25) DEANNA GLECKLER, RPR-CRR, Notary Public

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(1) ERRATA SHEET FOR: GEORGE PFREUNDSCHUH
(2) GEORGE PFREUNDSCHUH, being duly sworn, deposes and
(3) says: I have reviewed the transcript of my
(4) proceeding taken on 09/02/2022. The following
(5) changes are necessary to correct my testimony.

(6) _____
(7) PAGE LINE CHANGE REASON
(8) ---- | ---- | ----- | -----
(9) ---- | ---- | ----- | -----
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(20) ---- | ---- | ----- | -----

(21) Witness Signature: _____

(22) Subscribed and sworn to, before me
(23) this ____ day of _____, 20 ____.

(24) _____
(25) (NOTARY PUBLIC) MY COMMISSION EXPIRES

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